

## CHAPTER 422A

## RETIREMENT ALLOWANCES, MINNEAPOLIS

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## 422A.01 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 422A.01 to 422A.25 the terms defined in this section shall have the following meanings.

Subd. 2. **City.** "City" means the city of Minneapolis.

Subd. 3. **Retirement allowance.** "Retirement allowance" means either a service allowance to which an employee may be entitled who retires from the city service after having attained the minimum established age for retirement or a "disability allowance" to which an employee may be entitled who retires from the city service as a result of disability before having attained the minimum age for retirement.

Subd. 4. **Annuity.** "Annuity" means payments for life derived from contributions made by an employee, as provided in sections 422A.01 to 422A.25.

Subd. 5. **Pension.** "Pension" means payments for life derived from credits allowed and appropriations made by the city, as provided in sections 422A.01 to 422A.25.

Subd. 6. **Present worth or present value.** "Present worth" or "present value" means that the present amount of money if increased at the applicable postretirement or preretirement interest rate assumption specified in section 356.215, subdivision 8, and based on the mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained by the Legislative Commission on Pensions and Retirement will at retirement equal the actuarial accrued liability of the annuity already earned.

Subd. 7. **Actuarial equivalent.** "Actuarial equivalent" means the condition of one annuity or benefit having an equal present worth or present value as another annuity or benefit.

Subd. 8. **Established age.** "Established age" means the minimum age for retirement on a service allowance as specified by or pursuant to sections 422A.01 to 422A.25.

Subd. 9. **Public corporation.** "Public corporation" includes Metropolitan Airports Commission, Metropolitan Council and municipal employees retirement fund.

Subd. 10. **Unfunded actuarial accrued liability.** "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability to date and the corresponding assets valued under section 356.215, subdivision 1, clause (6).

Subd. 11. **Employee.** "Employee" means any person not exempted from the contributing class pursuant to section 422A.09, subdivision 3, who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of city government or independently if financed in whole or in part by city funds, including any person employed by a public corporation as herein

defined, and including any person employed by Special School District No. 1, who is not a member of any other retirement system, and also including any person who is employed by the county of Hennepin, who was entitled by law to elect and has elected to retain membership in the municipal employees retirement fund and who makes any required member contributions to the fund.

Subd. 12. **Dependent.** "Dependent" means a spouse, child, or any person actually dependent upon and receiving over 50 percent of support from such employee.

Subd. 13. **Postretirement investment fund annuity.** "Postretirement investment fund annuity" means all retirement and disability payments made by the fund under the terms of sections 422A.01 to 422A.25 as adjusted from time to time. This does not include payments, if any, from sources other than participation in the Minnesota postretirement investment fund.

Subd. 14. [Repealed, 1981 c 224 s 276]

Subd. 15. [Repealed, 1981 c 224 s 276]

Subd. 16. [Repealed, 1981 c 224 s 276]

Subd. 17. **Firefighter.** "Firefighter," for purposes of section 422A.151, means an employee of the metropolitan airports commission who was employed by the commission before June 30, 1978, and whose employment duties include, at a minimum, full-time service as an employee of a designated fire company who is engaged primarily in fire suppression and related duties, or as a person who is in charge of a designated fire company or companies and who is engaged in the hazards of fire fighting.

Subd. 18. **Licensed peace officer.** "Licensed peace officer," for purposes of section 422A.151, means an employee of the Metropolitan Airports Commission who was employed by the commission before June 30, 1978, and whose employment duties include, at a minimum, full-time service as an officer whose primary job it is to enforce the law, who is licensed by the Minnesota Board of Peace Officer Standards and Training under sections 626.84 to 626.863, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant.

**History:** 1973 c 133 s 1; 1974 c 422 art 2 s 7; 1977 c 399 s 9-11; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 179,274; 1986 c 444; 1987 c 259 s 61-63; 1992 c 596 s 4,5; 1994 c 628 art 3 s 33; 1997 c 7 art 1 s 138; 2002 c 392 art 11 s 52

#### 422A.02 RETIREMENT BOARD; MEMBERS.

A retirement board of seven members is hereby constituted which shall consist of the following:

(1) mayor, or a designee selected by the mayor;

(2) one member of the city council selected by the council; and

(3) five legally qualified voters to be chosen by the members of the retirement fund created by sections 422A.01 to 422A.25 at least two of whom shall be retired members. The members may form an association for that purpose and the employing authorities are authorized to make payroll deductions for the payment of dues to the association. The persons selected shall serve for staggered terms of three years from the first of the next succeeding January after their election, and until their successors are duly elected. The selection shall be made by the members of the association during the first week of December of each year. Vacancies occurring by death, resignation, or removal of representatives shall be filled by representatives chosen by the members of the association.

**History:** 1973 c 133 s 2; 1977 c 429 s 50; 1980 c 607 art 16 s 1; 1983 c 160 s 5

#### 422A.03 MEETINGS; EMPLOYEES; RULES AND REGULATIONS.

Subdivision 1. **Meetings; employees.** The retirement board shall meet on the third Tuesday of each calendar month of each year and may adjourn from time to time. Special meetings may be held upon the call of the president. The board shall, by a four-sevenths vote of all members of the board, appoint an executive director, who shall have charge of the performance of the duties required by the provisions of sections

422A.01 to 422A.25, and who shall appoint other necessary employees to positions approved in advance by the board. If at the time of appointment as executive director the appointee holds a position subject to the civil service rules and regulations of the city the appointee shall be deemed to be on leave of absence from the civil service position during tenure as executive director, and upon termination of service shall be returned to the appointee's permanent civil service classification. If no vacancy is available in the appointee's permanent civil service classified position, seniority shall prevail, and the person most recently certified to the position shall be returned to the permanent civil service classification held prior to such certification.

**Subd. 2. Removal of executive director; classification of employees.** The executive director may be removed by a four-sevenths vote of all members of the board at a meeting called for that purpose. Before exercising the power of removal, 15 days' written notice shall be given to the executive director setting forth the cause for removal and stating the time and place where the charges will be heard. The hearing shall be open to the public. Other employees under the supervision of the board and employees appointed hereafter shall be subject to applicable civil service laws and rules of the city unless the board determines that they should be unclassified. The compensation of the executive director and the other employees under the supervision of the board shall be fixed by the board.

**Subd. 3. Officers.** At the regular meeting in January each year, the board shall elect from among its members a president, a vice-president, and a secretary-treasurer, who shall hold office for one year or until successors have been elected and qualified. The president, if present, shall preside at all meetings. In the absence of the president the vice-president shall preside and have all the powers of the president while acting as such. The recording secretary shall keep a record of all proceedings of the board, which shall be open to public inspection. At least one of the officers of the board shall be one of the representatives elected by the employees of the city to the board.

**Subd. 4. Rules.** Subject to the limitations of law, the board shall from time to time establish rules and regulations for the administration of the fund or funds created by sections 422A.01 to 422A.25 and for the transaction of its business. Roberts rules of order shall be the rules of order of the board except as otherwise specifically adopted.

**Subd. 5. Powers of executive director.** For the purpose of administration, except as otherwise herein provided, the executive director, under the direction of the board, shall perform any and all acts and make regulations as may be necessary and proper for the purpose of carrying out the provisions of sections 422A.01 to 422A.25.

**History:** 1973 c 133 s 3; 1977 c 429 s 52; 1979 c 293 s 5,6; 1980 c 607 art 16 s 2-5,17 subd 3; 1983 c 160 s 6; 1986 c 444; 1991 c 206 s 3

#### **422A.04 EXPENSES; REPORTS; RECORDS; POWERS.**

**Subdivision 1. Requirements of board members.** The members of the retirement board shall serve without compensation but shall be reimbursed for any necessary expenditures and no employee shall suffer loss of salary or wages through serving on the board. Every member of the board shall take a similar oath of office as taken by employees of the city and such oath shall be subscribed to by each member and filed with the clerk of the city.

**Subd. 2. Actuarial data.** The board shall keep in convenient form any data necessary for the preparation of the annual actuarial valuation of the fund created by this chapter. The actuarial valuation of the fund shall be governed by the provisions of chapter 356.

**Subd. 3. Experience data and mortality tables.** The board shall prepare and keep any needful tables, records, and accounts required for carrying out the provisions of sections 422A.01 to 422A.25, including data showing the mortality and disability experience of the officers and employees of the service and the date of withdrawal from service, and any other information that may serve as a guide for future actuarial valuations and adjustments in the actuarial assumptions for the retirement fund. Mortality tables shall be adopted and may be modified from time to time by the board

based on the experience of the fund as recommended by the actuary retained by the legislative commission on pensions and retirement as a basis of calculation for retirement allowances, with any recommendation by the actuary retained as a part of the permanent records of the board.

Subd. 4. **Other powers.** The board shall perform such other functions as are required for the execution of the provisions of sections 422A.01 to 422A.25. For the purposes of sections 422A.01 to 422A.25, the board shall possess the powers and privileges of a corporation, and as such may sue and be sued, and shall have the right to issue subpoenas and to compel the attendance of witnesses.

**History:** 1973 c 133 s 4; 1987 c 259 s 64,65

#### 422A.05 TRUSTEE OF FUNDS.

Subdivision 1. **Power over funds.** The members of the retirement board shall be the trustees and custodians of the several funds created by sections 422A.01 to 422A.25 and shall have exclusive control and management of these funds, and power to invest them and to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by sections 422A.01 to 422A.25 shall have been invested as well as the proceeds of the investments, and of the money belonging to these funds. The power to manage and invest the assets of the funds must be exercised by the retirement board solely through professional investment or property management firms that are independent of the retirement fund. No financial or property assets of the funds may be managed, serviced, or invested internally or in-house at the retirement fund, except that any investment held by a fund on February 1, 1993, that is not readily tradable on an established securities exchange may continue to be managed directly by the retirement board until the investment is converted to cash. The retirement board's functions under this section consist primarily of establishing and effectuating investment policy and structure, managing the investment process, monitoring and measuring the performance of the external independent professional investment or property management firms, retaining or terminating agreements with these firms, apportioning the assets of the funds to be managed among these firms, and making financial decisions on issues if approvals have been specifically reserved by and to the board.

Subd. 2. [Repealed, 1980 c 607 art 16 s 19]

Subd. 2a. **Fiduciary duty.** (a) In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any person charged with the responsibility of servicing assets of the funds pursuant to the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. In addition, the members of the board and the chief administrative officer shall act in a manner consistent with chapter 356A.

(b) Individuals authorized by the board to manage or invest the assets of the funds must act in a manner consistent with chapter 356A. In addition, these individuals must act in good faith and exercise that degree of judgment, skill, diligence, and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence acting in a like capacity and familiar with the activity would exercise.

Subd. 2b. **Conflicts of interest.** No member of the board may participate in the deliberations or the voting on any matter before the board which will or is likely to result in direct, measurable personal gain to the member.

Subd. 2c. **Minneapolis Employees Retirement Fund investment authority.** (a) For investments made on or after July 1, 1991, the board shall invest funds only in investments authorized by section 356A.06, subdivision 7.

(b) However, in addition to real estate investments authorized under paragraph (a), the board may also make loans to purchasers of Minnesota situs nonfarm

residential real estate that is owned by the Minneapolis Employees Retirement Fund. The loans must be secured by mortgages or deeds of trust.

(c) For investments made before July 1, 1991, the board may, but is not required to, comply with paragraph (a). However, with respect to these investments, the board shall act in accordance with subdivision 2a and chapter 356A.

Subd. 2d. **Account transfers.** Notwithstanding any law to the contrary, the retirement board, subject to the standards of subdivision 2a and chapter 356A, may transfer assets between accounts established by section 422A.06.

Subd. 2e. **Standing; parties.** In addition to other parties with claims under statute or the common law, the state and a political subdivision that helps to finance a plan have standing to sue on behalf of all taxpayers and the plan beneficiaries for an alleged breach of fiduciary duty. If a suit is brought by the state or a political subdivision under this subdivision, no separate suit regarding the same claims on behalf of taxpayers of the state or a political subdivision or of beneficiaries may be allowed, and any suit then pending on behalf of taxpayers of the state or a political subdivision or of beneficiaries must be dismissed unless the court determines that its dismissal would prejudice or limit the rights or claims of the taxpayers or beneficiaries. Nothing in this subdivision precludes suits by both the state and an affected political subdivision or suits by the retirement board on behalf of one or more of the funds.

Subd. 2f. **Attorney fees.** The court shall award reasonable attorney fees and costs of litigation, in addition to damages and other relief, in a suit where a breach of fiduciary duty is found under subdivision 2a or chapter 356A.

Subd. 3. [Repealed, 1981 c 298 s 12]

Subd. 4. [Repealed, 1980 c 607 art 16 s 19]

Subd. 5. **Payments; revolving fund.** All payments from the funds created by sections 422A.01 to 422A.25 shall be signed by the treasurer, executive director, or other person appointed by the retirement board, and no payment shall be made except by order of the board duly entered in the record of its proceedings, except that the board may create a revolving fund in an amount as may be necessary to be used for the purpose of withdrawals from the fund of excess contributions; refunds to employees upon their separation from the service and for other purposes as may be determined by the board. The revolving fund shall be periodically reimbursed as set forth herein. It shall be subject to withdrawal upon check signed by the executive director, or other person appointed by the board.

Subd. 6. **Special funds.** The board may, in carrying out the provisions of sections 422A.01 to 422A.25, establish special funds supplementing individual contributions by the employees and to receive, invest, and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city.

Subd. 7. [Repealed, 1983 c 286 s 26]

Subd. 8. **Health insurance.** The retirement board may authorize the executive director or the executive director's designee to:

(1) offer the beneficiaries of the fund the option of having their health insurance premiums deducted automatically from their monthly benefit amounts and paid to a designated insurer; and

(2) provide beneficiaries information about available group health insurance plan options.

Beneficiaries who elect to avail themselves of this service are ultimately responsible for the timely payment of premiums and the payment of premiums in the proper amount.

**History:** 1973 c 133 s 5; 1980 c 607 art 16 s 6-11; 1981 c 298 s 4; 1981 c 306 s 2; 1983 c 286 s 18,19; 1983 c 291 s 4; 1989 c 319 art 8 s 19,20; 1990 c 426 art 1 s 47; 1991 c 206 s 4; 1991 c 345 art 4 s 6,7; 1993 c 307 art 10 s 1,2; 1994 c 604 art 2 s 4; 1995 c 262 art 2 s 9

**422A.06 RETIREMENT FUND.**

Subdivision 1. **Creation; divisions of fund.** For the purposes of this chapter, there is established the Minneapolis Employees Retirement Fund. That retirement fund is subdivided into (1) a deposit accumulation fund, (2) a survivor benefit fund, (3) a disability benefit fund, and (4) a retirement benefit fund. The expense of the administration of the retirement fund must be paid from the deposit accumulation fund, less the amount as the retirement board may charge against income of the retirement benefit fund from investments as the cost of handling the investments of the retirement benefit fund.

Subd. 2. **Actuarial valuation required.** As of July 1 of each year, an actuarial valuation of the retirement fund shall be prepared by the actuary retained by the joint retirement systems under section 356.214 and filed in conformance with the provisions and requirements of sections 356.215 to 356.23. Experience studies shall be prepared at those times required by statute, required by the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement or ordered by the board.

The board may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the joint retirement systems under section 356.214. Any supplemental actuarial valuations or experience studies must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Subd. 3. **Deposit accumulation fund.** The deposit accumulation fund consists of the assets held in the fund, including amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation, amounts paid by the state, and by income from investments. There must be paid from the fund the amounts required to be transferred to the retirement benefit fund, or the disability benefit fund, refunds of contributions, including the death-while-active refund specified in section 422A.22, subdivision 4, postretirement increases in retirement allowances granted under Laws 1965, chapter 688, or Laws 1969, chapter 859, and expenses of the administration of the retirement fund which were not charged by the retirement board against the income of the retirement benefit fund from investments as the cost of handling the investments of the retirement benefit fund.

Subd. 4. **No participation in the Minnesota postretirement investment fund.** The Minneapolis Employees Retirement Fund shall not participate in the Minnesota postretirement investment fund.

Subd. 5. **Transfer of reserves to retirement benefit fund; adjustments of annuities and benefits.** (a) Assets equal to the required reserves for retirement annuities as determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary and using the postretirement interest assumption specified in section 356.215, subdivision 8, shall be transferred to the disability benefit fund as provided in subdivision 7, or the retirement benefit fund, except for any amounts payable from the survivor benefit fund, as of date of retirement.

(b) Annuity payments shall be adjusted in accordance with this chapter, except that no minimum retirement payments described in this chapter shall include any amounts payable from the survivors' benefit fund or disability benefit fund and supplemented benefits specifically financed by statute.

(c) Increases in annuity payments pursuant to this section shall be made automatically unless written notice on a form prescribed by the board is filed with the retirement board requesting that the increase not be made.

(d) Any additional annuity which began to accrue on July 1, 1973, or which began to accrue on January 1, 1974, pursuant to Laws 1973, chapter 770, section 1, shall be considered as part of the base amount to be used in determining any postretirement adjustments payable pursuant to the provisions of subdivision 8.

Subd. 6. **Survivor's benefit fund.** The survivor's benefit fund consists of the amount held for survivor benefits, increased by contributions for survivor benefits made by and for employees, including contributions made by the employer, by any municipal activity supported in whole or in part by revenue other than taxes or by any public corporation. A proportionate share of income from investments must be allocated to this fund. Survivor benefits specified in section 422A.23 must be paid from this fund.

Subd. 7. **Disability benefit fund.** (a) The required reserves for disability allowances which become effective after December 31, 1973, shall be transferred from the deposit accumulation fund to the disability benefit fund. A proportionate share of income from investments shall be allocated to this fund. There shall be paid from this fund the disability allowances which become effective after December 31, 1973.

(b) In the event of termination of any disability allowance for any reason other than the death of the recipient, the balance of the required reserves for the disability allowance as of the date of termination shall be transferred from the disability benefit fund to the deposit accumulation fund.

(c) At the end of each fiscal year, as part of the annual actuarial valuation, a determination shall be made of the required reserves for all disability allowances being paid from the disability benefit fund. Any excess of assets over actuarial required reserves in the disability benefit fund shall be transferred to the deposit accumulation fund. Any excess of actuarial reserves over assets in the disability benefit fund shall be funded by a transfer of the appropriate amount of assets from the deposit accumulation fund.

Subd. 8. **Retirement benefit fund.** (a) The retirement benefit fund shall consist of amounts held for payment of retirement allowances for members retired pursuant to this chapter.

(b) Assets equal to the required reserves for retirement allowances pursuant to this chapter determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary shall be transferred from the deposit accumulation fund to the retirement benefit fund as of the last business day of the month in which the retirement allowance begins. The income from investments of these assets shall be allocated to this fund. There shall be paid from this fund the retirement annuities authorized by law. A required reserve calculation for the retirement benefit fund must be made by the actuary retained by the Legislative Commission on Pensions and Retirement and must be certified to the retirement board by the commission-retained actuary.

(c) The retirement benefit fund shall be governed by the applicable laws governing the accounting and audit procedures, investment, actuarial requirements, calculation and payment of postretirement benefit adjustments, discharge of any deficiency in the assets of the fund when compared to the actuarially determined required reserves, and other applicable operations and procedures regarding the Minnesota postretirement investment fund in effect on June 30, 1997, established under Minnesota Statutes 1996, section 11A.18, and any legal or administrative interpretations of those laws of the State Board of Investment, the legal advisor to the Board of Investment and the executive director of the State Board of Investment in effect on June 30, 1997. If a deferred yield adjustment account is established for the Minnesota postretirement investment fund before June 30, 1997, under Minnesota Statutes 1996, section 11A.18, subdivision 5, the retirement board shall also establish and maintain a deferred yield adjustment account within this fund.

(d) Annually, following the calculation of any postretirement adjustment payable from the retirement benefit fund, the board of trustees shall submit a report to the executive director of the Legislative Commission on Pensions and Retirement and to the commissioner of finance indicating the amount of any postretirement adjustment and the underlying calculations on which that postretirement adjustment amount is based, including the amount of dividends, the amount of interest, and the amount of net realized capital gains or losses utilized in the calculations.

(e) With respect to a former contributing member who began receiving a retirement annuity or disability benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, or with respect to a survivor of a former contributing member who began receiving a survivor benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, the reserves attributable to the one percent lower amount of the cost-of-living adjustment payable to those annuity or benefit recipients annually must be transferred back to the deposit accumulation fund to the credit of the Metropolitan Airports Commission. The calculation of this annual reduced cost-of-living adjustment reserve transfer must be reviewed by the actuary retained by the Legislative Commission on Pensions and Retirement.

**History:** 1973 c 133 s 6; 1973 c 770 s 1; 1974 c 76 s 1-5; 1977 c 399 s 12; 1980 c 509 s 161; 1980 c 607 art 16 s 12-14; 1981 c 224 s 180-182; 1981 c 298 s 5-9; 1982 c 578 art 3 s 12-15; 1Sp1985 c 7 s 35; 1986 c 444; 1987 c 259 s 66-69; 1991 c 345 art 4 s 8,9; 1996 c 305 art 1 s 98; 1997 c 233 art 1 s 64; 1999 c 222 art 17 s 1,2; 2002 c 392 art 11 s 52; 2004 c 223 s 9

422A.07 [Repealed, 1980 c 607 art 16 s 19]

#### 422A.08 FINANCING OF CITY'S CONTRIBUTION.

Subdivision 1. **Financing.** All income, interest and dividends derived from deposits and investments authorized by this chapter shall be placed to the credit of the retirement fund.

Subd. 2. [Repealed, 1981 c 224 s 276]

Subd. 3. [Repealed, 1981 c 224 s 276]

Subd. 4. [Repealed, 1981 c 224 s 276]

Subd. 5. **Service credit purchase.** Any contributor who prior to entering the service of the city was an employee of a public corporation, is authorized, using the procedure in subdivision 5a, to purchase allowable service credit in the retirement fund for employment by the public corporation in the same manner as though the service had been rendered to the city, providing that the individual has not received service credit and is not eligible to receive service credit for this period under any other plan or fund listed in section 356.30, subdivision 3. Before receiving credit for service rendered to a public corporation as herein set forth, the contributing employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the amount specified in subdivision 5a.

Subd. 5a. **Purchase payment amount.** (a) To purchase credit for prior service under this section, there must be paid to the Minneapolis Employees Retirement Fund an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by the purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate for the association specified in section 356.215, subdivision 8, and the mortality table adopted for the fund. The calculation must assume continuous future service in the fund until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the applicable salary increase rate for the fund or association specified in section 356.215, subdivision 8. The member must establish in the records of the fund proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director.

(b) Payment must be made in one lump sum.

(c) Payment of the amount calculated under this subdivision must be made by the member. However, the current or former governmental subdivision employer of the member may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period



or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

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

**History:** 1973 c 133 s 8; 1973 c 770 s 2; 1974 c 73 s 2; 1977 c 399 s 13,14; 1979 c 293 s 7; 1980 c 607 art 16 s 15; 1981 c 224 s 183,184; 1993 c 307 art 10 s 3,4; 2002 c 392 art 11 s 52

**422A.081** [Repealed, 1981 c 224 s 276]

#### **422A.09 CLASSIFICATION OF EMPLOYEES.**

Subdivision 1. **Two classes.** Employees of the city shall be divided into a contributing class and an exempt class.

Subd. 2. **Contributing class.** The contributing class shall consist of all employees not included in the exempt class, who become prospective beneficiaries of the fund created by sections 422A.01 to 422A.25.

A member of the contributing class who is granted a leave of absence without pay by the member's employer to serve as an employee or agent of a labor union representing members of the contributing class may continue as a member of the contributing class during the period of such leave of absence by depositing each month with the fund the amount of the contribution of the employee as required by sections 422A.01 to 422A.25 which amount shall be the normal employee contribution.

The contributions referred to in this subdivision shall be based on the salary for the position or its equivalent held by the member immediately prior to such leave of absence subject to any adjustment thereof during the period of such leave.

Subd. 3. **Exempt class.** The exempt class shall consist of:

(1) Employees who are members of any other organization or association of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position; provided that any elective officer holding an elective city office, except a judge of municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service and attaining at least age 60.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in Hennepin County, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution as required under section 422A.10. The employer contribution on behalf of the elected officer must be paid by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first became eligible for membership in the fund, under section 422A.10, plus six percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as doorkneppers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an

hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who were contributing members of the fund on July 1, 1959 shall not be affected by the exclusions in this section.

(5) A person who is exempted from the contributing class by Minnesota Statutes 1974, section 422A.09, subdivision 3, clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation, and including any person employed by Special School District No. 1, each of whom is not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify at that time for credit by paying into the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first qualified as an exempt member of the contributing class, under section 422A.10, plus six percent compound interest.

Subd. 4. **City coordinator; assistant city coordinator.** The exempt class shall also consist of persons filling the positions of Minneapolis city coordinator and assistant city coordinator, provided that any such person shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class. If a person filling the position of city coordinator or assistant city coordinator does not elect to become a member of the contributing class, the city of Minneapolis may pay to such person, in addition to the salary allowed under any limitations imposed upon salaries by any law, an amount equal to what would be the employer's contribution for normal costs to the retirement fund if the employee was a member of the contributing class, provided that such employee agrees that the additional salary shall be deposited by the city in a deferred compensation program.

**History:** 1973 c 133 s 9; 1973 c 770 s 3; 1974 c 76 s 6,7; 1976 c 130 s 2; 1977 c 399 s 15; 1977 c 452 s 34; 1978 c 562 s 11; 1978 c 649 s 5; 1978 c 720 s 12; 1979 c 50 s 55; 1980 c 607 art 16 s 16,17 subd 2; 1981 c 224 s 185; 1986 c 444; 1987 c 284 art 2 s 7; 1991 c 206 s 5; 1995 c 262 art 2 s 10

**422A.091** [Repealed, 1981 c 224 s 276]

#### **422A.10 SALARY DEDUCTIONS.**

Subdivision 1. **Contribution rate.** There shall be deducted and withheld from the basic salary, pay or compensation of each employee in the contributing class, prior to January 1, 1980 an amount equal to 7-1/4 percent, after December 31, 1979 but prior to January 1, 1981 an amount equal to 8-1/4 percent and after December 31, 1980 an amount equal to 9-1/4 percent of such salary, pay or compensation, except as hereinafter provided. The retirement board may increase the percentage rate of contribution to the retirement fund of any employee or employees for the purpose of establishing and maintaining on an actuarial basis a plan of insurance, survivors' benefits, or other type of benefit or benefits, the cost of which shall be paid out of such extra percentage so authorized and deducted from the employee's compensation, except as hereinafter provided. Any plan or plans so established and placed in operation may be amended from time to time, or may be abandoned, but if abandoned, any surplus remaining from the operation of a plan shall be the property of the fund, and shall be credited to the reserve for loss in investment account.

Subd. 2. **Consent to deductions.** Every employee to whom sections 422A.01 to 422A.25 applies who shall continue in the service after the passage of Laws 1919, chapter 522, as well as every person to whom sections 422A.01 to 422A.25 applies who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and payment with such reductions, for service, shall be a full and complete discharge and acquittance of all claims and demands for all services rendered by such person during the period covered

by such payment; except the person's claim to the benefits to which the person may be entitled under the provisions of sections 422A.01 to 422A.25.

Subd. 3. **Option to increase contributions.** Subject to such terms and conditions and to such rules and regulations as the retirement board may adopt, any contributor from time to time may increase or decrease the contributor's rate of contribution to the retirement fund, but in no event shall the contribution be less than the minimum contribution specified in the provisions of sections 422A.01 to 422A.25.

**History:** 1973 c 133 s 10; 1974 c 73 s 2; 1979 c 293 s 8; 1979 c 303 art 6 s 8; 1986 c 444

#### 422A.101 PREPARATION OF FINANCIAL REQUIREMENTS OF FUND; EMPLOYER CONTRIBUTIONS.

Subdivision 1. **Financial requirements of fund.** Prior to July 31 annually, the retirement board, in consultation with the commission-retained actuary, shall prepare an itemized statement of the financial requirements of the fund for the succeeding fiscal year. A copy of the statement shall be submitted to the city council, the board of estimate and taxation of the city, the managing board or chief administrative officer of each city owned public utility, improvement project or municipal activity supported in whole or in part by revenues other than real estate taxes, public corporation, or unit of metropolitan government employing members of the fund, the board of Special School District No. 1, and the state commissioner of finance prior to July 31 annually. The statement shall be itemized and shall include the following:

(1) an estimate of the administrative expenses of the fund for the following year, including the amount necessary to amortize through June 30, 2020, the annual costs that are determined by the retirement board to be related to investment activities of the deposit accumulation fund other than actual investment transaction amounts;

(2) an estimate of the normal cost of the fund expressed as a dollar amount, which shall be determined by applying the normal cost of the fund as reported in the most recent actuarial valuation prepared by the commission-retained actuary and expressed as a percentage of covered payroll to the estimated total covered payroll of all employees covered by the fund for the following year;

(3) an estimate of the contribution required to amortize on a level annual dollar basis the unfunded actuarial accrued liability of the fund by June 30, 2020, using an interest rate of six percent compounded annually as reported in the most recent actuarial valuation, prepared by the commission-retained actuary expressed as a dollar amount. In determining the amount of the unfunded actuarial accrued liability of the fund, all assets other than the assets of the retirement benefit fund shall be valued as current assets as defined under section 356.215, subdivision 1, clause (6), and the assets of the retirement benefit fund shall be valued equal to the actuarially determined required reserves for benefits payable from that fund;

(4) the amount of any deficiency in the actual amount of any employer contribution provided for in this section when compared to the required contribution amount certified for the previous year, plus interest on the amount at the rate of six percent per annum.

Subd. 1a. **City contributions.** Prior to August 31 of each year, the retirement board shall prepare an itemized statement of the financial requirements of the fund payable by the city for the succeeding fiscal year, and a copy of the statement shall be submitted to the board of estimate and taxation and to the city council by September 15. The financial requirements of the fund payable by the city shall be calculated as follows:

(a) a regular employer contribution of an amount equal to the percentage rounded to the nearest two decimal places of the salaries and wages of all employees covered by the retirement fund which equals the difference between the level normal cost plus administrative cost as reported in the annual actuarial valuation prepared by the commission-retained actuary and the employee contributions provided for in section 422A.10 less any amounts contributed toward the payment of the balance of the normal cost not paid by employee contributions by any city owned public utility, improvement

project, other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, or by Special School District No. 1 pursuant to subdivision 2;

(b) an additional employer contribution of an amount equal to the percent specified in section 353.27, subdivision 3a, clause (a), multiplied by the salaries and wages of all employees covered by the retirement fund less any amounts contributed toward amortization of the unfunded actuarial accrued liability by June 30, 2020, attributable to their respective covered employees by any city owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, or by Special School District No. 1 pursuant to subdivision 2; and

(c) a proportional share of an additional employer amortization contribution of an amount equal to \$3,900,000 annually until June 30, 2020, based upon the share of the fund's unfunded actuarial accrued liability attributed to the city as disclosed in the annual actuarial valuation prepared by the commission-retained actuary.

The city council shall, in addition to other taxes levied by the city, annually levy a tax equal to the amount of the financial requirements of the fund which are payable by the city. The tax, when levied, shall be extended upon the county lists and shall be collected and enforced in the same manner as other taxes levied by the city. If the city does not levy a tax sufficient to meet the requirements of this subdivision, the retirement board shall submit the tax levy statement directly to the county auditor, who shall levy the tax. The tax, when levied, shall be extended upon the county lists and shall be collected and paid into the city treasury to the credit of the retirement fund. Any amount to the credit of the retirement fund shall constitute a special fund and shall be used only for the payment of obligations authorized pursuant to this chapter.

**Subd. 2. Contributions by or for city-owned public utilities, improvements, or municipal activities.** Contributions by or for any city-owned public utility, improvement project, and other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, Special School District No. 1, or Hennepin County, on account of any employee covered by the fund, shall be calculated as follows:

(a) a regular employer contribution of an amount equal to the percentage rounded to the nearest two decimal places of the salaries and wages of all employees of the employing unit covered by the retirement fund which equals the difference between the level normal cost plus administrative cost reported in the annual actuarial valuation prepared by the commission-retained actuary and the employee contributions provided for in section 422A.10;

(b) an additional employer contribution of an amount equal to the percent specified in section 353.27, subdivision 3a, clause (a), multiplied by the salaries and wages of all employees of the employing unit covered by the retirement fund;

(c) a proportional share of an additional employer amortization contribution of an amount equal to \$3,900,000 annually until June 30, 2020, based upon the share of the fund's unfunded actuarial accrued liability attributed to the employer as disclosed in the annual actuarial valuation prepared by the commission-retained actuary.

The city council or any board or commission may, by proper action, provide for the inclusion of the cost of the retirement contributions for employees of any city-owned public utility or for persons employed in any improvement project or other municipal activity supported in whole or in part by revenues other than taxes who are covered by the retirement fund in the cost of operating the utility, improvement project, or municipal activity. The cost of retirement contributions for these employees shall be determined by the retirement board and the respective governing bodies having jurisdiction over the financing of these operating costs.

The cost of the employer contributions on behalf of employees of Special School District No. 1 who are covered by the retirement fund shall be the obligation of the school district. Contributions by the school district to the retirement fund or any other

public pension or retirement fund of which its employees are members must be remitted to the fund each month. An amount due and not transmitted begins to accrue interest at the rate of six percent compounded annually 15 days after the date due. The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by the school district, which shall be submitted prior to September 15. Contributions by the school district shall be made at times designated by the retirement board. The school district may levy for its contribution to the retirement fund only to the extent permitted pursuant to section 126C.41, subdivision 3.

The cost of the employer contributions on behalf of elective officers or other employees of Hennepin County who are covered by the retirement fund pursuant to section 422A.09, subdivision 3, clause (2), 422A.22, subdivision 2, or 488A.115, or Laws 1973, chapter 380, section 3, Laws 1975, chapter 402, section 2, or any other applicable law shall be the obligation of Hennepin County. The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by Hennepin County, which shall be submitted prior to September 15. Contributions by Hennepin County shall be made at times designated by the retirement board. Hennepin County may levy for its contribution to the retirement fund.

**Subd. 2a. Contributions by Metropolitan Airports Commission and Metropolitan Council.** The Metropolitan Airports Commission and the Metropolitan Council shall pay to the Minneapolis Employees Retirement Fund annually in installments as specified in subdivision 3 the share of the additional support rate required for full amortization of the unfunded actuarial accrued liabilities by June 30, 2020, that is attributable to employees of the airports commission or former Metropolitan Waste Control Commission who are members of the fund. The amount of the payment shall be determined as if the airport commission and Metropolitan Council's employer contributions determined under subdivision 2 had also included a proportionate share of a \$1,000,000 annual employer amortization contribution. The amount of this \$1,000,000 annual employer amortization contribution that would have been allocated to the commission or council would have been based on the share of the fund's unfunded actuarial accrued liability attributed to the commission or council compared to the total unfunded actuarial accrued liability attributed to all employers under subdivisions 1a and 2. The determinations required under this subdivision must be based on the most recent actuarial valuation prepared by the actuary retained by the Legislative Commission on Pensions and Retirement.

**Subd. 3. State contributions.** (a) Subject to the limitation set forth in paragraph (c), the state shall pay to the Minneapolis Employees Retirement Fund annually an amount equal to the amount calculated under paragraph (b).

(b) The payment amount is an amount equal to the financial requirements of the Minneapolis Employees Retirement Fund reported in the actuarial valuation of the fund prepared by the commission-retained actuary pursuant to section 356.215 for the most recent year but based on a target date for full amortization of the unfunded actuarial accrued liabilities by June 30, 2020, less the amount of employee contributions required pursuant to section 422A.10, and the amount of employer contributions required pursuant to subdivisions 1a, 2, and 2a. Payments shall be made September 15 annually.

(c) The annual state contribution under this subdivision may not exceed \$9,000,000, plus the cost of the annual supplemental benefit determined under section 356.43.

(d) If the amount determined under paragraph (b) exceeds \$11,910,000, the excess must be allocated to and paid to the fund by the employers identified in subdivisions 1a and 2, other than units of metropolitan government. Each employer's share of the excess is proportionate to the employer's share of the fund's unfunded actuarial accrued liability as disclosed in the annual actuarial valuation prepared by the actuary retained by the Legislative Commission on Pensions and Retirement compared to the total unfunded actuarial accrued liability attributed to all employers identified in

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subdivisions 1a and 2, other than units of metropolitan government. Payments must be made in equal installments as set forth in paragraph (b).

Subd. 4. **Additional employer contribution in certain instances.** (a) If a participating employing unit, other than the state, has a negative asset balance in the deposit accumulation fund, the executive director shall bill the employing unit for the amount of the deficiency. Any amount billed must include six percent interest, compounded annually, for any year or portion of a year from the billing date until the date of payment.

(b) If assets in the deposit accumulation fund are insufficient to make a transfer to the retirement benefit fund, the city of Minneapolis shall pay the amount of that insufficiency to the retirement benefit fund within three days of certification of the insufficiency by the executive director of the fund. The city of Minneapolis may bill any other participating employing unit other than the state for its proportion of the amount paid. Any amount billed by the city under this paragraph must include interest as specified in paragraph (a).

**History:** 1979 c 303 art 6 s 9; 1980 c 614 s 148; 1981 c 224 s 186; 1981 c 298 s 11; 1Sp1981 c 1 art 10 s 22; 1985 c 248 s 58; 1Sp1985 c 13 s 331,332; 1987 c 259 s 70; 1988 c 718 art 7 s 56; 1989 c 329 art 9 s 28; 1991 c 130 s 37; 1991 c 345 art 4 s 10; 1992 c 480 s 1; 1992 c 499 art 12 s 29; 1993 c 307 art 10 s 5; 1994 c 628 art 3 s 34; 1997 c 202 art 2 s 48; 1998 c 397 art 11 s 3; 1999 c 222 art 17 s 3; 2000 c 488 art 12 s 18; 2002 c 392 art 11 s 52

## 422A.11 MILITARY SERVICE.

Subdivision 1. **Service credit.** Any employee who engages in or has engaged in active service in time of war or other emergency declared by proper authority, in any of the military or naval forces of the state or of the United States, and returns to the employment of the city within 90 days following release from military or naval service, shall receive credit for the period of military service as provided in this section as though actually employed by the city, provided the employee was a member of the contributing class of the retirement fund at the time of entrance into military service, or was a member of the exempt class at the time of entrance into military service prior to December 31, 1945, or qualifies as a member of the exempt class as specified in section 422A.09, subdivision 3, clause (5), notwithstanding the provisions of the Veterans Preference Act or any other law, rule or bylaw providing for credit for military service for pension purposes. Employees on leave of absence or layoff at time of entrance into military service as herein provided shall be considered employees for the purpose of this chapter. Credit shall be granted for military service rendered, provided that credit for military service shall not exceed six calendar years.

Subd. 2. **Credit after refund.** Any employee who was a member of the contributing class of the fund at the time of entrance into military service and who resigned from the service of the city and received a refund of the employee's personal contribution to the fund and who is reemployed by the city and again becomes a contributing member of the fund shall receive credit for military service as provided by this section upon repaying to the fund the amount of the refund plus interest thereon at six percent compounded annually until fully paid and the further payment to the fund without interest of the amount the contribution would have totaled had the employee continued as a contributing member of the fund during the period of military service. No contribution shall be made by the city to the credit of an employee's account for the period of such military service.

Subd. 3. **Calculation of credit.** The retirement board shall determine and compute the amount of the contributions which said employee would have made to such fund if employment had not been interrupted by military service. The amount so determined and computed shall constitute an obligation of and be paid by the city or public corporation, and shall be credited to the contribution account of such employee. In determining the amount of contributions that the employee would have made if the employee had not entered military service, consideration shall be given to the employ-

ment service of employees who did not enter military service with like classification, seniority rights, length of service, and other factors determining probable time of employment.

Subd. 4. **Separation from service.** In the event that such employee becomes separated from the service, except by retirement or death, prior to the expiration of five years subsequent to the date on which the employee was reinstated as an employee, such contribution may not be withdrawn by said employee, but shall be canceled and credited to the reserve for annuities account of this fund. If an employee returns to the service after being separated as provided herein, credit shall be granted upon payment of the separation refund required by section 422A.22. In determining the five year period, there shall be included only time of actual employment.

**History:** 1973 c 133 s 11; 1974 c 76 s 8; 1980 c 509 s 162; 1980 c 607 art 16 s 17 subd 2; 1981 c 224 s 187; 1986 c 444

#### 422A.12 CREDITS; INDIVIDUAL RECORD.

Subdivision 1. **Salary deductions.** The city comptroller or other person having supervision of the payment of salaries to employees shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of these sums shall be entered to the credit of the various employees from whose salaries deductions have been made.

Subd. 2. **Credits.** At the close of each fiscal year there shall be credited within the deposit accumulation fund to accounts representing contributions by the municipality and to accounts representing the accumulated amount of each contributing employee in proportion to the average quarterly balance in each such account during said fiscal year the amount of income from investments earned on the accumulated funds in possession of the board, after having deducted from the total of such income (1) the amounts otherwise required as interest for various allowances or purposes specified in sections 422A.01 to 422A.25 and (2) an amount to be set aside to liquidate actual or to amortize prospective losses on investments in the accumulation account. The net balance of the investment earnings to be so distributed shall be distributed at the greatest multiple of one-tenth of one percent up to and including a maximum of the interest assumption rate provided for in section 422A.06, subdivision 5 of all such accounts. Any undistributed excess earnings or losses determined to be earnings or losses attributable to the employers' contributions shall be distributed or charged to the employers' reserve accounts in proportion to the employers' average quarterly balances. Any undistributed excess earnings or losses determined to be earnings or losses attributable to the employees' contributions shall be distributed or charged to the employers' reserve accounts in proportion to the number of covered employees employed by each employer. If income from investments is insufficient to enable the crediting of the maximum interest amount to the employee and employer accounts, the maximum interest will first be credited to the employee accounts. If income is insufficient to cover the amounts credited to the employee accounts, the insufficiency attributable to each employer group of employees' accounts will be made up by a charge against the reserve account of that employer. The amount that shall be set aside annually to liquidate losses on investments shall be such amount as the board may deem necessary for such purpose but not in excess of one mill on the dollar of the gross amount received as income on the cash and investments in the fund.

**History:** 1973 c 133 s 12; 1974 c 76 s 9; 1992 c 480 s 2

#### 422A.13 RETIREMENT ALLOWANCES; WHEN PAID.

Subdivision 1. **Allowance.** Any person who shall have been employed by the city and who shall have fulfilled the conditions in sections 422A.01 to 422A.25 specified shall be entitled to receive a retirement allowance, as set forth in sections 422A.01 to 422A.25.

Subd. 2. **Retirement age.** Subject to the limitations in sections 422A.01 to 422A.25, an employec in the contributing class who was employed by the city for ten or more years and attains the established age for retirement, or was employed by the city for 30 or more years, as dctermined by the retirement board, may retire.

**History:** 1973 c 133 s 13; 1976 c 130 s 3; 1978 c 649 s 6; 1991 c 206 s 6

#### 422A.14 APPLICATION; APPROVAL.

Subdivision 1. **Application for allowance.** No disability benefit or retirement allowance shall be granted to any employee who may become eligible for retirement as provided in sections 422A.01 to 422A.25 until the employee, or one authorized to act in the employee's behalf, shall have filed with the retirement board, in such form as may be prescribed by the board, an application for such allowance. No installment of any such allowance shall be paid for any period prior to the effective date of retirement or the date of application, whichever occurs later.

Subd. 2. [Repealed, 1992 c 480 s 6]

**History:** 1973 c 133 s 14; 1986 c 444; 1992 c 480 s 3

#### 422A.15 SERVICE ALLOWANCE; CONTRIBUTING EMPLOYEES.

Subdivision 1. **Formula pension and annuity.** Except as otherwise provided in subdivision 3, each contributing member who, at the time of retirement, fulfills the conditions necessary to enable the member to retire, shall receive what shall be known as a "formula pension and annuity" equal to two percent for each year of allowable service for the first ten years and thereafter 2.5 percent per year of allowable service of the arithmetic average annual salary, wages or compensation of the member from the city for any five calendar years out of the last ten calendar years of service except as provided for in section 422A.16, which may include the year in which the employee retires, as selected by the employccc, multiplied by the years of service credited by the retirement fund. The formula pension and annuity shall be computed on the single life plan but subject to the option selections provided for in section 422A.17.

In order to be entitled to the formula pension and annuity herein provided for, the retiring employee at the time of cessation of employment and of actual retirement shall have attained the age of 60 years or have been employed by the city not less than 30 years, or meet the qualifications provided for in section 422A.16, and in addition thereto have contributed to the retirement fund at the percentage rate prescribed by the retirement law applicable when the salary, wages or compensation was paid on all salaries, wages, or compensation received from the city or from an applicable employ-ing unit. The years of service to be applied in the formula pension and annuity shall be found and determined by the retirement board, except that no credit shall be allowed for any year in which a back charge is owing at time of retirement and the earnings from any year in which a back charge is owing shall not be used in determining the average annual salary.

Subd. 2. **Withdrawal of voluntary contributions.** Voluntary additions to the employee's deposits made by the employee under section 422A.10 may be withdrawn by the retiring employee or, with the approval of the retirement board, applied to the purchase of an additional annuity computed and determined under a procedure specified by the actuary retained by the Legislative Commission on Pensions and Retirement utilizing the appropriate mortality table established by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Subd. 3. **Optional defined contribution annuity.** In lieu of the formula pension and annuity, a person who was a contributing member on April 28, 1973, who is eligible to retire and who ceases to be employed and who qualifies for retirement shall have the option of electing to receive a retirement allowance known as "the \$2 bill and annuity."

If a member of the contributing class makes the election provided for in this section, the member shall receive a minimum pension of \$2 per month for each year of



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service. The pension shall be the actuarial equivalent of the accumulated amounts of the annual installments as may be fixed and designated by law throughout the period of service of the retiring employee, not to exceed 25 years, accumulated to the date of retirement at six percent compound interest, and such extra credit to be provided by the city as will produce the minimum pension of \$2 per month for each year of service. The pension shall be in addition to the annuity. The annuity shall be in the actuarial equivalent of the net accumulated contributions to the credit of the retiring employee, calculated at the date of retirement. For the purposes of this chapter, the "service allowance" for members of the contributing class shall consist of an "annuity" and a "pension."

The pension provided for herein shall be the actuarial equivalent of the accumulated annual installments of \$2 per month for each year of service. The sum of \$2 shall be computed as a single life annuity and subject to the option selections provided for in section 422A.17. The pension and annuity provided for in this subdivision shall be first paid from the contributing member's own contributions and normal earned credits, plus interest, until those credits are exhausted.

The retirement allowance provided under this subdivision or any optional annuity form of the retirement allowance shall be computed and determined under a procedure specified by the commission-retained actuary utilizing the appropriate mortality table established by the board of trustees based on the experience of the fund as recommended by the actuary retained by the Legislative Commission on Pensions and Retirement and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Subd. 4. **Service.** Except as otherwise provided in sections 422A.01 to 422A.25, the service of each contributing member shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the city. In computing length of service of contributing employees for the purpose of sections 422A.01 to 422A.25, periods of separations from the service shall not be included, provided, that any contributing employee who heretofore or hereafter shall serve as a duly elected member of the Minnesota state legislature and who at the time of entrance into the service herein outlined was a contributing member of the retirement fund, shall receive credit for the time spent in such service as though actually employed by such city. In order to receive credit as herein outlined, such employee shall contribute to the retirement fund the amount that would have been contributed by the employee if actually employed by the city. The amount of salary, wages or compensation received by the employee immediately prior to entering the service herein set forth, shall be the dollar amount used in determining the contributions to be made to the retirement fund, and also the amount to be used in determining the arithmetical average annual compensation otherwise provided for in sections 422A.01 to 422A.25.

Subd. 5. **Payment.** All retirement allowances as herein provided shall be paid in monthly installments and checks shall be issued and mailed to the last known address of each beneficiary by the first business day of the month succeeding the month in which the allowance is authorized. Where a beneficiary is under legal guardianship, monthly installments may be paid to the guardian.

**History:** 1973 c 133 s 15; 1973 c 770 s 4-6; 1974 c 73 s 3; 1980 c 607 art 16 s 17 subd 2; 1981 c 224 s 188; 1986 c 444; 1987 c 259 s 71,72; 2002 c 392 art 11 s 52

## 422A.151 ALTERNATIVE CALCULATION OF ANNUITY.

(a) In the case of a contributing member of the Minneapolis Employees Retirement Fund who is employed as a licensed peace officer or firefighter with the Metropolitan Airports Commission and who retires, becomes disabled within the meaning of section 422A.18, or dies, the retirement, disability, or survivor allowance is equal to the higher of the following:

(1) the retirement, disability, or survivor allowance calculated for the person under the applicable provisions of the Minneapolis Employees Retirement Fund; or

(2) the retirement, disability, or survivor benefit that the person would be entitled to upon meeting the applicable age and allowable service requirements of section 353.651, 353.656, or 353.657 if all employment as a licensed peace officer or firefighter with the Metropolitan Airports Commission had been allowable service under the Public Employees Retirement Association police and fire fund, instead of being covered by the Minneapolis Employees Retirement Fund. In computing the alternative benefit under section 353.651, 353.656, or 353.657, the applicable definitions and related provisions of chapter 353 must be used.

A firefighter or licensed peace officer terminating employment by the Metropolitan Airports Commission after June 30, 1997, or the survivor of a deceased firefighter or licensed peace officer terminating employment by the Metropolitan Airports Commission after June 30, 1997, under section 353.651, 353.656, or 353.657, shall receive a one percent lower cost-of-living adjustment than otherwise payable under section 422A.06, subdivision 5. If the cost-of-living adjustment payable under section 422A.06, subdivision 5, is less than one percent, the firefighter or licensed peace officer who retired after June 30, 1997, must not have a reduction in the previously received annuity or benefit amount, but future cost-of-living adjustments must be modified equal to the percentage the benefit would have been reduced below the person's current annuity or benefit amount to reflect the one percent lower cost-of-living adjustment under section 422A.06, subdivision 5.

(b) If a contributing member under paragraph (a) has periods of coverage by the Minneapolis Employees Retirement Fund that include service other than employment as a licensed peace officer or firefighter as well as employment as a licensed peace officer or firefighter, the calculation of the benefit under paragraph (a), clause (2), may only utilize service as a licensed peace officer or firefighter employed by the Metropolitan Airports Commission.

**History:** 1992 c 596 s 6; 1997 c 233 art 1 s 65

#### 422A.155 DETERMINATION OF SERVICE CREDIT.

(a) Notwithstanding the provisions of section 422A.15, subdivision 1, no employee of the contributing class of the Minneapolis Employees Retirement Fund shall be entitled to receive a year of service credit during the employee's final year of service unless the employee is employed and has received compensation from the city of Minneapolis or other applicable employing unit during each of the calendar months making up the year for which the employee would usually be employed. Any employee of the contributing class who is employed and receives compensation in fewer than the usual number of calendar months during the final year of service shall receive credit for that portion of a year that the employee's completed months of employment and receipt of compensation bears to the usual number of months which the employee would usually be employed.

(b) [Expired]

**History:** 1979 c 293 s 9; 1981 c 298 s 11; 1Sp2001 c 10 art 6 s 18,21; 2002 c 392 art 7 s 3; 1Sp2003 c 12 art 6 s 5

#### 422A.156 LIMITATION ON CERTAIN BENEFIT PAYMENTS.

From and after February 8, 1980, nothing contained in section 422A.09, subdivision 3, clause (2) shall be construed as allowing payment of a retirement allowance or other retirement benefits other than a disability allowance pursuant to section 422A.18 if otherwise eligible to any former, present or future elective officer of the city of Minneapolis who has not attained the age of at least 60 years unless the elective officer has received credit for at least 30 years of services and retires pursuant to section 422A.15, subdivision 1.

**History:** 1980 c 342 s 22

**422A.16 RETIREMENT ALLOWANCE; DEFERRED COMPENSATION.**

Subdivision 1. **Contribution.** Any member of the contributing class who becomes permanently separated from the service of the city after three or more years of service to the city may, by an instrument in writing filed with the retirement board within 30 days after such separation becomes permanent, elect to allow the member's contributions to the fund to the date of separation to remain on deposit in the fund.

Subd. 2. **Deferred defined contribution annuity.** A person who is a member of the contributing class on April 28, 1973, and who makes the election provided for in this subdivision and in subdivision 1, may, upon attaining the age of 55 years, but before attaining the age of 65 years, or someone acting in the member's behalf, may make application to receive the retirement allowance provided for in section 422A.15, subdivision 3, or an optional retirement allowance in the manner provided for by section 422A.17. The retirement allowance shall be the actuarial equivalent of the city's contribution and the member's deposit, as they were on the date the separation becomes permanent, plus interest, as provided for in section 422A.12.

The retirement allowance provided under this subdivision or any optional annuity form of the retirement allowance shall be computed and determined under a procedure specified by the commission-retained actuary utilizing the appropriate mortality table established by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Subd. 3. **Payments to beneficiaries.** If such contributing member dies without having made the election provided for herein, the net accumulated amount of deductions from the member's salary, pay or compensation plus interest to the member's credit on date of death must be paid to such person, or persons, as the member shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require. If the employee fails to make a designation, or if the person or persons designated by the employee is not living to receive payment, the net accumulated amount of deductions from the employee's salary, pay, or compensation, plus interest to the credit of such employee on date of death must be paid to the employee's estate. The net accumulated city deposits must be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member. If there is no surviving spouse, or surviving child or children, deposits must be paid to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

If the beneficiary designated by the member is not one of the class of persons named in the preceding paragraph, such benefit from the accumulations of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child, or children, to the dependent or dependents of the member, share and share alike; (4) if there be no surviving spouse, child, or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; (7) and if there be no person named in this paragraph who survives the member, the accumulation of city deposits must be canceled.

Subd. 3a. [Repealed, 1999 c 222 art 17 s 9]

Subd. 4. **Retirement allowance.** A contributing member may, after electing to receive a retirement allowance as provided herein, make application to withdraw the member's deposit before reaching the age of 60 years, at which time that portion contributed by the city shall be canceled.

Subd. 5. **Withdrawal before retirement.** If such deposit is withdrawn before retirement, the retirement rights shall be forfeited unless such employee returns to the

service of the city and again becomes a contributing member to the fund and redeposits the amount withdrawn, plus six percent compound interest from date of withdrawal to date of reinstatement to the service of the city.

Subd. 6. **Disability allowance.** If a contributing member, after becoming permanently separated from the service of the city and after electing to receive a retirement allowance as provided herein, becomes totally and permanently disabled for any cause before reaching the age of 60 years, the member shall be entitled to receive such disability allowance upon application to the retirement board and certified by the medical board provided in sections 422A.01 to 422A.25. Such disability allowance shall be the actuarial equivalent of the total credit to the member's account on the date application for such retirement allowance is made.

Subd. 7. **Election for funds to remain on deposit.** Any member of the contributing class who becomes permanently separated from the service of the city after ten or more years of service for such city, and who is under the age of 60 years, may, by an instrument in writing, filed with the retirement board within 30 days after such separation becomes permanent, elect to allow the member's contributions to such fund to the date of separation to remain on deposit in such fund, and in such event the member shall be entitled to receive a retirement allowance at age 60 or later, but before age 65, provided the member, or someone acting in the member's behalf if the member be incompetent, make written application for the retirement allowance provided for in section 422A.15, subdivision 1, in the same manner provided for in section 422A.17. The provisions of subdivisions 3, 4, 5 and 6 shall also apply to any member qualifying for benefits under this subdivision.

Subd. 8. **Service in more than one fund.** Any person who was a member of the Minneapolis Employees Retirement Fund and also a member of a plan administered by the director of the Minnesota State Retirement System having a like provision or a member of the Public Employees Retirement Association or the Teachers Retirement Association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in any two or more of these funds totals ten or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that any refundment received from the Minneapolis Employees Retirement Fund has been repaid to that fund. The annuity from each fund shall be determined by the appropriate provisions of that fund except the provision requiring at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equal ten or more years.

Subd. 9. **Incompetency or death of member.** Any member of the contributing class who becomes permanently separated from the service of the city under subdivision 8, may, by an instrument in writing, filed with the municipal employees retirement board within 30 days after such separation becomes permanent, elect to allow the member contributions to such fund to the date of separation to remain on deposit in such fund, and in such event the member shall be entitled to receive a retirement allowance at age 65, provided the member, or someone acting in the member's behalf if the member be incompetent, shall make written application for such retirement allowance in the same manner provided for in section 422A.17 and in accordance with the provisions of section 422A.15, subdivision 1 except for determining average annual salary. A member with more than five calendar years of service but less than ten calendar years may select any five calendar years of service to determine the average annual salary. A member with less than five years of service with the city shall use all earnings to determine the average annual salary.

If the contributing member dies before reaching the age of 65 years, or having attained the age of 65 years without having made the election provided for herein, the net accumulated amount of deductions from the member's salary, pay or compensation, plus interest, to the member's credit on date of death shall be paid to such person or

persons as have been nominated by written designation filed with the retirement board, in such form as the retirement board shall require.

If the employee fails to make a designation, or if the person or persons designated by such employee predeceases such employee, the net accumulated credit to such employee's account on date of death shall be paid to such employee's estate.

The provisions of subdivisions 4, 5 and 6 shall also apply to any member qualifying for benefits under this subdivision, except for purposes of this subdivision the age referred to in subdivision 4 shall be 65 years.

Subd. 10. **Deferred allowance augmentation.** Deferred allowances granted under this section shall be calculated as of the date of separation and shall be increased by the interest rate of five percent per year until January 1, 1981, and thereafter by the interest rate of three percent per year, compounded annually.

**History:** 1973 c 133 s 16; 1973 c 770 s 7-11; 1974 c 76 s 10,11; 1975 c 152 s 1; 1977 c 399 s 16; 1977 c 429 s 63; 1978 c 796 s 45; 1980 c 607 art 16 s 17 subd 2; 1981 c 224 s 189; 1981 c 298 s 11; 1986 c 444; 1987 c 259 s 73-75; 1991 c 206 s 7,8; 2002 c 392 art 11 s 52

#### 422A.17 RETIREMENT ALLOWANCE; OPTIONS.

At retirement, any employee who is eligible to receive a service allowance may elect to receive benefits in a retirement allowance payable throughout life or may on retirement elect to receive the actuarial equivalent at that time of annuity, pension, or retirement allowance in a lesser annuity, or a lesser pension, or a lesser retirement allowance, payable throughout life, with the provisions that:

Option I. If the benefit recipient dies before receiving in payments an amount equal to the present value of the benefit recipient's annuity, pension, or retirement allowance, as of the date of the benefit recipient's retirement, the balance shall be paid to the benefit recipient's legal representatives or to such person as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option II. Upon the death of the benefit recipient, the benefit recipient's annuity, pension, or retirement allowance shall be continued throughout the life of and paid to the person as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option III. Upon death of the benefit recipient, one-half of the benefit recipient's annuity, pension, or retirement allowance shall be continued throughout the life of and paid to the person as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option IV. Other optional retirement allowance forms, including a joint and survivor option under which the benefit recipient receives a normal single-life annuity if the designated optional annuity beneficiary dies before the benefit recipient, shall be paid to the benefit recipient or other person or persons the benefit recipient nominates, provided that the optional annuity is of equivalent actuarial value to the applicable single life annuity calculated under section 422A.15 and is approved by the retirement board.

Any optional retirement allowance shall be computed and determined under a procedure specified by the commission-retained actuary utilizing the appropriate mortality table established by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

In adopting optional annuity forms, the board of trustees shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board of trustees.

**History:** 1973 c 133 s 17; 1980 c 607 art 16 s 17 subd 3; 1986 c 444; 1987 c 259 s 76; 1991 c 345 art 4 s 11; 1992 c 480 s 4; 2002 c 392 art 11 s 52

**422A.18 DISABILITY ALLOWANCES.**

Subdivision 1. **Expert examination.** (a) Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in the employee's behalf, the retirement board shall place the contributor on disability and pay the person a disability allowance under this section if the medical board, after an expert examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

(b) The medical board shall consist of the city physician, a physician, chiropractor, or licensed psychologist to be selected by the retirement board, and a physician, chiropractor, or licensed psychologist to be selected by the employee.

(c) Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability.

(d) Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as nonduty disability. In order to be entitled to a retirement allowance for a nonduty disability, an employee shall have rendered five or more years of service to the city.

Subd. 2. **Disability allowance amount.** (a) The amount of disability allowance under this section shall be the amount of service allowance to which the employee would be entitled under section 422A.15, notwithstanding the age requirements expressed therein; or the lesser of the following amounts: 50 percent of the final average compensation, or an amount equal to two percent of final average compensation for each year of allowable service for the first ten years, and thereafter 2.5 percent of final average compensation per year of allowable service, including in the latter assumed service between the date the disability occurred and the 60th birthday of the employee.

(b) Annuities payable under this section shall be adjusted at the same time and rate as retirement annuities in the retirement benefit fund.

Subd. 3. **Payment.** Payment of any disability allowance authorized by sections 422A.01 to 422A.25, shall commence three months after date of application provided that the applicant has not been restored to duty. Such payment shall be retroactive to date of application and shall continue throughout the full period of the disability subject to the same optional selections as are provided for service allowances; provided that when a disability beneficiary shall have attained the minimum age for retirement on a service allowance the disability allowance shall be discontinued only as provided by the terms of the option selected. Any employee eligible for a disability allowance who is also entitled to an allowance under a workers' compensation act and/or resumes a gainful occupation shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by sections 422A.01 to 422A.25 which when added to such additional compensation does not exceed the salary of the employee at the time of disability.

Subd. 4. **Additional medical examinations.** (a) Once each year, the retirement board may require any disability beneficiary while still under the established age for retirement to undergo an expert examination by one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the retirement board. The examination must be made at the place of residence of the beneficiary or other place mutually agreed upon.

(b) If the medical board certifies to the retirement board that the disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, the beneficiary's allowance must be discontinued and the head of the department in which the beneficiary was employed at the time of retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of the disability allowance.

(c) After the expiration of five years subsequent to the retirement of the beneficiary, the restoration to duty, notwithstanding the recommendation of the

medical board, is optional with the head of the department. If any disability beneficiary, while under the established age for retirement, refuses to submit to at least one expert examination in any year by one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the medical board, the allowance must be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all the beneficiary's rights in and to any retirement or disability allowance are forfeited.

**Subd. 5. Return to active service.** Upon application of any beneficiary under the established age for retirement drawing a pension or a disability allowance under the provisions of sections 422A.01 to 422A.25, approved by the retirement board, the beneficiary may be restored to active service by the head of the department in which the beneficiary was employed at the time of disability. Upon the restoration of a beneficiary to active service the disability allowance shall cease.

**Subd. 6.** [Repealed, 1975 c 152 s 4]

**Subd. 7. Rules.** The board shall establish rules and regulations for the determination of earnings for purposes of this section.

**History:** 1973 c 133 s 18; 1973 c 770 s 12; 1974 c 74 s 1,2; 1974 c 76 s 12; 1975 c 152 s 2; 1975 c 359 s 23; 1977 c 399 s 17; 1980 c 607 art 14 s 45 subd 2; s 46; 1984 c 574 s 13; 1986 c 444; 1999 c 222 art 17 s 4; 2004 c 267 art 8 s 34,35

#### 422A.19 RETIREMENT; CREDIT FOR SERVICE UNDER DISABILITY.

Where the city pays a disability allowance to any employee under any provisions of sections 422A.01 to 422A.25 and which provisions require the performance of services for any specified period immediately preceding the time of retirement to entitle an employee to a retirement allowance, the time during which any such person has heretofore received a disability allowance within such specified period immediately preceding retirement, by reason of any disability arising from an accident occurring in the course of employment, shall be credited as service with the same force and effect as if the employee had actually performed service during such time.

**History:** 1973 c 133 s 19; 1986 c 444

#### 422A.20 DEATH BENEFITS; DISTRIBUTION.

**Subdivision 1. Death benefits.** In all cases where the retirement board of the city pursuant to sections 422A.01 to 422A.25 is required to refund the net accumulated credits of any contributing employee standing to the employee's credit on date of death, or to refund the balance remaining to the credit of a retired employee on the date of death, who has retired under the Option I plan of retirement, the retirement board shall, at the written request of such employee filed with the retirement board prior to death, or at the written request of a beneficiary filed with the retirement board after the employee's death, provide for the payment of such credits or balances or any portion thereof in monthly installments until such credits or balances are exhausted; provided that such beneficiary shall be of the class of persons permitted to receive a sum or sums standing to the credit of the employee at the time of death.

**Subd. 2. Interest.** The retirement board shall provide for the payment of annual interest on the credits or balances remaining on deposit at the same rate that is paid to contributing employees on accumulated salary deductions.

**Subd. 3. Applicability.** Nothing in this section shall be construed to alter the method of determining the persons entitled to receive such refunds or the amount to be paid.

**History:** 1973 c 133 s 20; 1986 c 444

#### 422A.21 RETIREMENT ALLOWANCES INCREASED.

**Subdivision 1. Increases.** The retirement board shall increase the retirement allowances hereafter paid of those employees who have retired or shall retire under the

“\$2 bill and annuity” after January 1, 1973, by three 25 percent increases computed separately, each increase not to exceed \$300 per annum.

Subd. 2. **Applicability.** Nothing in this section shall be construed to alter the method of computing and determining the amount of the retirement allowance as provided in sections 422A.01 to 422A.25, except the amount provided in subdivision 1 shall be paid in addition to any allowance authorized in sections 422A.01 to 422A.25.

**History:** 1973 c 133 s 21; 1973 c 770 s 13

#### 422A.22 REFUNDS.

Subdivision 1. **Retention; transfer.** If an employee to whom sections 422A.01 to 422A.25 applies becomes absolutely separated from the service prior to attaining the minimum retirement age established in section 422A.13, the net accumulated amount of deduction from salary, pay, or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employee, with interest. Any contributing employee who separates from a department, board or commission of the city whose employees are covered by a fund organized under sections 422A.01 to 422A.25, and becomes an employee of a department or board of the same city, whose employees are covered by a retirement fund or relief association by whatever name known, organized under any other law and supported in whole or in part by taxes on the same city, shall have the option of:

(1) Retaining their membership in the fund organized under sections 422A.01 to 422A.25, regardless of the provisions of any law, rule, bylaw or other action requiring membership in any other retirement fund or relief association however organized.

(2) Transferring to the fund or association covering the employees of the department or board to which they are transferring, providing they are eligible for membership therein.

Any contributing employee who elects to transfer to another fund or association as herein provided, shall make such election within one year from the date of separation from the city service covered by this fund. If the contributing employee elects to transfer to another fund as herein provided, a refund of the net accumulated contributions made by such employee to the fund organized under sections 422A.01 to 422A.25, shall be returned to the employee with interest.

Subd. 2. **Hennepin County.** Any person who has had 15 years or more of service as a member of the contributing class prior to July 1, 1967, and who separates from employment and becomes an employee or an elected or appointed official of Hennepin County within 30 days after the separation from employment with the city, shall have the option of resuming or retaining membership in this fund regardless of the provisions of any law which would otherwise require membership in some other retirement fund, or of taking any retirement allowance or refund to which the person would otherwise be entitled upon separation. The election of the contributing member to so resume or retain membership in this fund shall be made within three years from the date of separation by giving a written notice of election to the retirement board and a copy to Hennepin County. The cost of employer contributions to the retirement fund subsequent to entering the service of Hennepin County shall be an obligation of the county as provided in section 422A.101, subdivision 2. Any person who so elects to remain in this fund shall be entitled to all the benefits and subject to all the restrictions of this chapter.

Subd. 3. **Limitation on eligibility.** No employee of the city shall be eligible to be a member of or receive benefits from more than one fund of the city for the same service.

Subd. 4. **Death-while-active refund.** (a) Upon the death of an active member prior to termination of service, there shall be paid to the beneficiary or beneficiaries designated by the member on a form specified by the executive director and filed with the retirement board, the net accumulated employee deductions from salary, pay, or compensation, including interest compounded annually to the date of the member's death. The amount must not include any contributions made by the employee or on the



employee's behalf, or any interest or investment earnings on those contributions, which were allocated to the survivor benefit fund under section 422A.06, subdivision 6.

(b) If the employee fails to make a designation, or if the beneficiary or beneficiaries designated by the employee predeceases the employee, the benefit specified in paragraph (a) must be paid to the deceased employee's estate.

(c) A benefit payable under this subdivision is in addition to any applicable survivor benefit under section 422A.23.

**Subd. 5. Repayment of refund.** Upon reemployment of a former covered employee in employment covered by the Minneapolis Employees Retirement Fund, service credit for past service which was forfeited by taking a refund must be reinstated only upon repayment of the amount of the separation refund, with interest, from the time of payment of the refund until the date repaid.

**Subd. 6. Refund; municipal employees retirement fund.** Any person who has received a refund from the municipal employees retirement fund, and who is a member of a public retirement system included in section 422A.16, subdivision 8, may repay such refund with interest to the municipal employees retirement fund. If a refund is repaid to the fund and more than one refund has been received from the fund, all refunds must be repaid. Repayment shall be made as provided in sections 422A.01 to 422A.25.

**History:** 1973 c 133 s 22; 1973 c 770 s 14; 1981 c 224 s 190; 1986 c 444; 1999 c 222 art 17 s 5,6

#### 422A.221 AUTHORIZATION FOR REPAYMENT OF REFUND IN CERTAIN INSTANCES.

**Subdivision 1. Entitlement.** Any person who was a member of the Minneapolis Employees Retirement Fund by virtue of the person's employment and was required to receive a refund of accumulated member contributions and interest pursuant to Minnesota Statutes 1957, section 422.09 shall be entitled to repay to the Minneapolis Employees Retirement Fund any amounts refunded and, when otherwise qualified, to receive a retirement annuity from the fund calculated under the applicable law in effect upon the termination of covered service.

**Subd. 2. Calculation of repayment.** The refund repayment shall be an amount equal to the amount previously refunded plus interest from the date of the refund until the date of the repayment at the rate of six percent per annum, compounded annually. No service credit shall be credited prior to the receipt of the amount refunded plus interest thereon.

**History:** 1981 c 68 s 30; 1981 c 298 s 11

#### 422A.23 SURVIVOR BENEFITS.

**Subdivision 1. Payment of city installment accumulated amount.** (a) If an active or deferred member dies with ten or more years of service credit, except as noted in paragraph (d), the individual specified in paragraph (b) is eligible to receive the benefit specified in paragraph (c).

(b) An individual eligible for the benefit specified in paragraph (c) is a beneficiary designated by the member on a form specified by the executive director. If the member failed to designate a beneficiary, or if the beneficiary or beneficiaries designated by the employee predecease the employee, the benefit in paragraph (c) is payable to the deceased employee's estate.

(c) The benefit is a lump-sum payment of the present value of the city's or other contributing employer's annual installments of \$60 to the credit of the member.

(d) No benefit is payable under this subdivision if a monthly survivor benefit is paid on behalf of the deceased employee under another subdivision of this section.

**Subd. 2. Short-service survivor benefit.** (a) If an active member dies prior to termination of service with at least 18 months but less than 20 years of service credit, the surviving spouse or surviving child or children is eligible to receive the survivor

benefit specified in paragraph (b) or (c), as applicable. Payment of a benefit for any surviving child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of the surviving child.

(b) If the surviving spouse or surviving child benefit commenced before July 1, 1983, the surviving spouse benefit is increased from \$500 per month to \$750 per month and the surviving child benefit is \$225 per month, beginning with the first monthly payment payable after May 28, 1998. The sum of surviving spouse and surviving child benefits payable under this paragraph shall not exceed \$900 per month. The increased cost resulting from the benefit increases under this paragraph must be allocated to each employing unit listed in section 422A.101, subdivisions 1a, 2, and 2a, on the basis of the additional accrued liability resulting from increased benefits paid to the survivors of employees from that unit.

(c) If the surviving spouse or surviving child benefit commences after June 30, 1983, the surviving spouse benefit is 30 percent of the member's average salary in effect over the last six months of allowable service preceding the month in which death occurs. The surviving child benefit is ten percent of the member's average salary in effect over the last six months of allowable service preceding the month in which death occurs. The sum of surviving spouse and surviving child benefits payable under this paragraph shall not exceed 50 percent of the member's average salary in effect over the last six months of allowable service.

(d) Any surviving child benefit or surviving spouse benefit computed under paragraph (c) and in effect for the month immediately prior to May 28, 1998, is increased by 15 percent as of the first payment on or after May 28, 1998.

(e) Surviving child benefits under this subdivision terminate when the child no longer meets the definition of surviving child.

Subd. 3. [Repealed, 1983 c 286 s 26]

Subd. 4. [Repealed, 1976 c 279 s 4]

Subd. 5. **Administration.** Benefits provided in this section following the death of an active employee or deferred member, as applicable, commence on the first day of the month following the month in which the active employee or deferred member dies and shall end with the last day of the month preceding the month in which eligibility ceases. Information deemed necessary by the executive director to determine eligibility for the benefits provided by this section must be submitted. Failure to furnish any required information shall be sufficient grounds for denial or discontinuance of benefits. A determination made by the executive director may be appealed to the retirement board, whose determination is final. If the surviving spouse of the deceased active employee or deferred member becomes entitled to a retirement allowance by reason of membership in this fund, the surviving spouse is authorized to receive the retirement allowance in addition to all applicable surviving spouse benefits to which the surviving spouse is entitled as specified in this section and section 422A.22, subdivision 4, if applicable. The cost of all benefits provided in this section is an obligation of the members and of the city, any of its boards, departments, commissions or public corporations or other applicable employing units.

Subd. 6. **Survivor benefit employee contribution.** The retirement board shall create a reserve account for survivor's benefits from which shall be paid on an actuarial basis all survivor benefits due and payable. At the end of each fiscal year, as part of the annual actuarial valuation of the fund prepared by the commission-retained actuary, a determination of the normal cost of the benefits payable from the survivor's benefit account shall be made and the board shall reduce or increase the employee contribution rate if and when it is determined based on the annual actuarial valuation that the member contribution rate is in excess of or is less than the amount necessary to pay for 50 percent of the calculated normal cost of the survivor benefits provided in this section.

Subd. 7. **Long-service active and deferred member survivor coverage.** (a) If the active or deferred member dies with 20 or more years of service credit, a beneficiary as defined in paragraph (b) is eligible to receive the benefit specified in paragraph (c).

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(b) The beneficiary eligible for a benefit under paragraph (c) is the surviving spouse of the deceased employee. If there is no surviving spouse, the beneficiary may be a dependent surviving child of the member or dependent parent designated by the employee on a form prescribed by the executive director.

(c) The benefit payable to the beneficiary designated in paragraph (b) is a monthly allowance for life. The monthly allowance is the actuarial equivalent of a single life service allowance specified in section 422A.15, subdivision 1, which would have been payable to the employee on the date of death, notwithstanding the age requirement stated in section 422A.15, subdivision 1. For purposes of this section, the amount of any excess contributions or voluntary additions by the member shall not be included in the calculations in determining the monthly allowance.

(d) For benefits payable under this subdivision following the death of a deferred member, the benefit must be calculated as of the date of termination from service and increased by five percent per year until January 1, 1981, and by three percent per year thereafter, compounded annually.

**Subd. 8. Surviving child; dependent definition.** For purposes of subdivision 2, a surviving child is an unmarried child of the deceased member under the age of 18, or under the age of 22 if a full-time student at an accredited school, college, or university. For purposes of subdivision 7, a dependent surviving child or dependent parent must meet the definition of dependent, as defined in section 422A.01, subdivision 12, at the time of the active or deferred member's death.

**Subd. 9. Lump-sum death benefit.** If no monthly survivor benefit is payable under subdivision 2 or 7, there shall be paid from the survivor benefit account to a beneficiary designated by the employee on a form prescribed by the executive director a lump-sum death benefit of \$750 if death occurs prior to the end of the employee's tenth year of service credit or of \$1,500 if the employee had ten or more years of service credit. Any benefit under this subdivision may be paid in addition to a benefit payable under subdivision 1.

**Subd. 10. Benefit increases.** Annuities payable under this section must be adjusted at the same time and rate as retirement annuities in the retirement benefit fund.

**Subd. 11. Effect of spouse remarriage.** A monthly survivor benefit must not be discontinued or terminated due to a surviving spouse's remarriage.

**Subd. 12. Determination of annuity.** The survivor annuities payable under this section must be computed and determined under a procedure specified by the actuary retained by the Legislative Commission on Pensions and Retirement utilizing the appropriate mortality table based on the experience of the fund as recommended by that actuary and approved by the Legislative Commission on Pensions and Retirement and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

**History:** 1973 c 133 s 23; 1973 c 770 s 15; 1974 c 75 s 1-3; 1974 c 76 s 13; 1974 c 232 s 1; 1976 c 279 s 1,2; 1977 c 399 s 18,19; 1980 c 607 art 14 s 45 subd 2; s 46; 1981 c 224 s 191; 1983 c 286 s 20; 1986 c 444; 1987 c 259 s 77,78; 1991 c 345 art 4 s 12; 1992 c 480 s 5; 1998 c 390 art 2 s 16; 1999 c 222 art 17 s 7; 2002 c 392 art 11 s 52

## 422A.231 COST ALLOCATION.

(a) Notwithstanding any law to the contrary, all current and future contribution requirements due to this article are payable by the participating contributing employing units other than the state.

(b) In each actuarial valuation of the retirement fund, the actuary retained by the Legislative Commission on Pensions and Retirement shall include an exhibit on the impact of the benefit increases contained in this article on the survivor benefit fund. The actuary shall calculate the expected change in the present value of the future benefits payable from the survivor benefit fund attributable to this article, using the actuarial method and assumptions applicable to the Minneapolis Employees Retirement Fund, from the prior actuarial valuation and shall compare that result with the

actual change in the present value of future benefits payable from the survivor benefit fund attributable to this article from the prior actuarial valuation.

(c) The executive director shall assess each participating employer, other than the state, its proportional share of the net increase amount calculated under paragraph (b). The assessment must be made on the first business day of the following February, plus compound interest at an annual rate of six percent on the amount from the actuarial valuation date to the date of payment.

**History:** 1999 c 222 art 17 s 8

#### **422A.24 ALLOWANCES NOT ASSIGNABLE OR SUBJECT TO PROCESS.**

No money payable pursuant to this chapter shall be assignable either in law or equity or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111, nor shall any of the proceeds of payments due pursuant to this chapter be subject to the inheritance tax provisions of this state upon transfer to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

**History:** 1973 c 133 s 24; 1981 c 224 s 192; 1984 c 547 s 9; 1987 c 157 s 9; 1997 c 203 art 6 s 92

#### **422A.25 CONTINUING APPROPRIATION, RIGHTS NOT IMPAIRED.**

All money necessary to meet all transfers from account to account, from fund to fund, and from fund to beneficiaries and annuitants provided in sections 422A.01 to 422A.25, are hereby annually and from time to time appropriated. Nothing contained in sections 422A.01 to 422A.25 shall be construed as diminishing, limiting or modifying any vested right of an employee, annuitant or beneficiary to a retirement allowance, annuity or pension acquired under the law existing prior to May 1, 1975.

**History:** 1973 c 133 s 26; 1975 c 152 s 3

#### **422A.26 COVERAGE BY THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.**

Notwithstanding section 422A.09, or any other law to the contrary, any person whose employment by, or assumption of a position as an appointed or elected officer of, the city of Minneapolis, any of the boards, departments, or commissions operated as a department of the city of Minneapolis or independently if financed in whole or in part by funds of the city of Minneapolis, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund, or Special School District Number 1 if the person is not a member of the Minneapolis Teachers Retirement Fund Association by virtue of that employment or position, initially commences on or after July 1, 1979 shall be a member of the Public Employees Retirement Association unless excluded from membership pursuant to section 353.01, subdivision 2b. In no event shall there be any new members of the contributing class of the Minneapolis employees fund on or after July 1, 1979.

**History:** 1979 c 303 art 6 s 10; 1981 c 224 s 193; 1981 c 298 s 11

**422A.30** [Repealed, 1981 c 224 s 276]

**422A.31** [Repealed, 1981 c 224 s 276]

**422A.32** [Repealed, 1981 c 224 s 276]

**422A.33** [Repealed, 1981 c 224 s 276]

**422A.34** [Repealed, 1981 c 224 s 276]

**422A.35** [Repealed, 1981 c 224 s 276]

**422A.39** [Repealed, 1981 c 224 s 276]