

## CHAPTER 352

## MINNESOTA STATE RETIREMENT SYSTEM

352.01	Definitions.	352.15	Exemption from process and taxation.
352.021	Minnesota State Retirement System.	352.22	Refund or deferred annuities.
352.04	State employees retirement fund, contributions by employee and employer.	352.275	Uncredited military service credit purchase.
352.041	Leave of absence for employment by political subdivision.	352.87	State Fire Marshal Division employees.
352.115	Retirement annuity.	352.91	Covered correctional service.
352.119	Participation in postretirement investment fund.	352.93	Retirement annuity.

**352.01 DEFINITIONS.**

*[For text of subs 1 and 2, see M.S.2004]*

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

- (1) employees of the Minnesota Historical Society;
- (2) employees of the State Horticultural Society;
- (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
- (4) employees of the Minnesota Crop Improvement Association;
- (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (6) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;
- (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
- (8) employees of the Armory Building Commission;
- (9) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- (10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
- (11) employees of the Minnesota Safety Council;
- (12) any employees on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;
- (13) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control Commission, or Metropolitan Radio Board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;
- (14) judges of the Tax Court;
- (15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;
- (16) seasonal help in the classified service employed by the Department of Revenue; and

(17) persons employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

*[For text of subs 2b and 3, see M.S.2004]*

**Subd. 4. Accumulated contributions.** "Accumulated contributions" means the total, exclusive of interest, of (1) the sums deducted from the salary of an employee, (2) the amount of payments, including assessments, paid by the employee in lieu of salary deductions and all other payments made under this chapter and credited to the employee's individual account in the retirement fund.

**Subd. 5. Retirement fund.** (a) "Retirement fund" means the general state employees retirement fund created by section 352.04, subdivision 1, with respect to the general state employees retirement plan or the correctional state employees retirement fund created by section 352.911, subdivision 1, with respect to the correctional state employees retirement plan.

(b) The retirement fund includes the aggregate of accumulated contributions of employees covered by the applicable plan, and all other funds paid into the state treasury or received by the director under this chapter, together with all income and profits from the money and interest on it, including contributions on the part of the federal government, the state, and state departments.

*[For text of subd 11, see M.S.2004]*

**Subd. 12. Actuarial equivalent.** "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date at a specified age with each actuarial present value based on the appropriate mortality table adopted by the board of directors based on the experience of the fund as recommended by the actuary retained under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

**Subd. 13. Salary.** (a) Subject to the limitations of section 356.611, "salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not include:

- (1) lump sum sick leave payments;
- (2) severance payments;
- (3) lump sum annual leave payments and overtime payments made at the time of separation from state service;
- (4) payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage;
- (5) payments made as an employer-paid fringe benefit;
- (6) workers' compensation payments;
- (7) employer contributions to a deferred compensation or tax sheltered annuity program; and
- (8) amounts contributed under a benevolent vacation and sick leave donation program.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

*[For text of subd 13a, see M.S.2004]*

Subd. 14a. **Average salary.** (a) "Average salary" means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

(b) "Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary disability.

(c) For an employee covered by the correctional state employees retirement plan, "average salary" means the average of the monthly salary during the employee's highest five successive years of salary as an employee covered by the general state employees retirement plan, or the correctional state employees retirement plan, or by a combination of the two. If the total of the covered service is less than five years, the determination of average salary must be based on all allowable service.

*[For text of subds 15 to 20, see M.S.2004]*

Subd. 21. **Accrued annuities.** (a) In this chapter and chapters 3A, 352B, 352C, and 490, "accrued annuity" means an annuity that had become payable to a retired employee in the lifetime of the employee.

(b) An annuity or benefit authorized as provided in this chapter and chapters 3A, 352B, 352C, and 490 becomes payable on the first day of each calendar month for that calendar month and must be paid on the first day of each calendar month.

(c) Notwithstanding any provision to the contrary in this chapter and chapters 3A, 352B, 352C, and 490, benefit payment authorized as "payable for life" is payable for the entire month in which death occurs, and the benefit payment for the month of death is payable to the surviving spouse or other beneficiary only if the annuitant dies before negotiating the benefit check.

*[For text of subd 22, see M.S.2004]*

Subd. 23. **Coverage or covered by the system.** "Coverage" or "covered by the system" means that a state employee who serves the state of Minnesota and makes the required employee contributions to the retirement fund is, by reason of these contributions, entitled to either (1) a retirement annuity, or (2) a disability benefit, or (3) a refund of accumulated contributions, as provided in this chapter.

*[For text of subds 24 to 26, see M.S.2004]*

**History:** 1Sp2005 c 8 art 1 s 1,2; art 3 s 1; art 4 s 2; art 10 s 7-10

### 352.021 MINNESOTA STATE RETIREMENT SYSTEM.

Subdivision 1. **Establishment.** (a) There is established the general state employees retirement plan of the Minnesota State Retirement System for state employees.

(b) The general state employees retirement plan is a continuation of the State Employees Retirement Association.

(c) Any person who was a member of the State Employees Retirement Association on June 30, 1967, is covered by the general state employees retirement plan and is entitled to all benefits provided by the plan upon fulfilling the age, service, contribution, and other requirements of this chapter.

Subd. 2. **State employees covered.** Every person who becomes a state employee as defined in section 352.01 is covered by the general state employees retirement plan. Acceptance of state employment or continuance in state service is deemed to be

consent to have deductions made from salary for deposit to the credit of the account of the state employee in the retirement fund.

Subd. 3. **Optional exemptions.** Any person who is appointed by the governor or lieutenant governor may request exemption from coverage by the general state employees retirement plan under this chapter if the appointee is not covered by the plan on the date of appointment. To qualify for this exemption, a written request must be made within 90 days from the date of entering upon the duties of the position to which the person is appointed. After making the request, a person requesting the exemption is not entitled to coverage by the general state employees retirement plan while employed in the position that entitled that person to an exemption from coverage.

Subd. 4. **Reentering service after refund.** When a former employee who has withdrawn accumulated contributions reenters employment in a position entitled to coverage under the general state employees retirement plan, the employee must be covered by the plan on the same basis as a new employee and is not entitled to credit for any former service. The annuity rights forfeited when taking a refund can only be restored as provided in this chapter.

**History:** *1Sp2005 c 8 art 10 s 11-14*

#### **352.04 STATE EMPLOYEES RETIREMENT FUND, CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.**

Subdivision 1. **Fund created.** (a) There is created a special fund to be known as the general state employees retirement fund. In that fund, employee contributions, employer contributions, and other amounts authorized by law must be deposited.

(b) The general state employees retirement plan of the Minnesota State Retirement System must participate in the Minnesota postretirement investment fund. The amounts provided in section 352.119 must be deposited in the Minnesota postretirement investment fund.

*[For text of subs 2 to 11, see M.S.2004]*

Subd. 12. **Fund disbursement restricted.** The general state employees retirement fund and the participation in the Minnesota postretirement investment fund must be disbursed only for the purposes provided by law. The expenses of the system and any benefits provided by law, other than benefits payable from the Minnesota postretirement investment fund, must be paid from the general state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as refunds of any sum remaining to the credit of a deceased retired employee or a disabled employee must be paid only from the general state employees retirement fund after the needs have been certified and the amounts withdrawn from the participation in the Minnesota postretirement investment fund under section 11A.18. The amounts necessary to make the payments from the general state employees retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from these funds for those purposes.

**History:** *1Sp2005 c 8 art 10 s 15,16*

#### **352.041 LEAVE OF ABSENCE FOR EMPLOYMENT BY POLITICAL SUBDIVISION.**

Subdivision 1. **Allowable service credit.** (a) An employee covered by the general state employees retirement plan who is given a leave of absence for employment by a political subdivision of the state remains a member of the plan and must continue to pay member contributions into the general state employees retirement fund for the period of leave.

(b) Upon payment of member contributions, the employee must be given allowable service credit as a state employee on the records of the retirement plan as though the employee had received salary from the state during the leave. Payments into the

retirement fund must be at the rate required in section 352.04, subdivision 2, and must be based upon the salary received from the political subdivision.

**Subd. 2. Employee contributions, procedure.** The officer or employee who is authorized by law to pay salaries to employees of the political subdivision which is employing a state employee must deduct employee contributions for the general state employees retirement plan under section 352.04, subdivision 2, from the salary of each employee who is on leave of absence from state service on each payroll abstract and must pay the sum to the director following the conclusion of each pay period.

**Subd. 3. Employer contributions, procedure.** The officer or employee who is authorized by law to pay salaries to employees of the political subdivision which is employing a state employee covered by the general state employees retirement plan also must have employer contributions made to the general state employees retirement fund following the conclusion of each payroll abstract in the amount required by section 352.04, subdivision 3. These contributions must be charged to the political subdivision as an administrative cost.

**Subd. 5. Employer contributions, leaves of absence; tax levies.** (a) Every political subdivision which is employing a state employee covered by the system on leave of absence from state service for employment by a political subdivision of the state must pay into the general state employees retirement fund the amount of the employer contribution required by law for state employees covered by the system under section 352.04, subdivision 3.

(b) Employing political subdivisions other than school districts may levy taxes necessary for the payment of employer contributions without limitation as to rate or amount. The levy of the taxes does not reduce the amount of other taxes that may be levied by political subdivisions other than school districts which are subject to any limitation.

**History:** *1Sp2005 c 8 art 10 s 17-20*

### **352.115 RETIREMENT ANNUITY.**

*[For text of subd 1, see M.S.2004]*

**Subd. 2. Normal retirement annuity.** The retirement annuity hereunder payable at normal retirement age or thereafter must be computed in accordance with the applicable provisions of the formula stated in subdivision 3, on the basis of the employee's average salary for the period of allowable service. This retirement annuity is known as the "normal" retirement annuity.

**Subd. 3. Retirement annuity formula.** (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in section 352.01, subdivision 14a, multiplied by the percent specified in section 356.315, subdivision 1, per year of allowable service for the first ten years and the percent specified in section 356.315, subdivision 2, for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who has become at least 55 years old and first became a covered employee after June 30, 1989, and to any other covered employee who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in section 352.01, subdivision 14a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

*[For text of subds 7 to 12, see M.S.2004]*

**History:** *1Sp2005 c 8 art 1 s 3,4*

### **352.119 PARTICIPATION IN POSTRETIREMENT INVESTMENT FUND.**

Subdivision 1. [Repealed, 1Sp2005 c 8 art 10 s 81]

*[For text of subds 2 to 4, see M.S.2004]*

### **352.15 EXEMPTION FROM PROCESS AND TAXATION.**

Subdivision 1. **Exemption.** The provisions of section 356.401 apply to the general state employees retirement plan and to the correctional state employees retirement plan.

Subd. 1a. [Repealed, 1Sp2005 c 8 art 10 s 81]

Subd. 3. **Deducting health or dental insurance premiums.** The board may authorize, at its discretion, the deduction of a retiree's health or dental insurance premiums and transfer of the amounts to a health or dental insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health or dental insurance carrier must refund deductions withheld from a retiree's check in error directly to the retiree. The board shall require that the insurance carrier reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

Subd. 4. **Direct transfer of refunds.** A direct transfer of refunds under this chapter may be made to an individual retirement savings account or a qualified retirement plan of the person upon the receipt of an application for transfer by a former employee, on forms acceptable to the executive director.

**History:** *1Sp2005 c 8 art 10 s 21-23*

### **352.22 REFUND OR DEFERRED ANNUITIES.**

*[For text of subds 1 to 8, see M.S.2004]*

Subd. 10. **Other refunds.** Former employees covered by the system are entitled to apply for refunds if they are or become members of the State Patrol retirement fund, the state Teachers Retirement Association, or employees of the University of Minnesota excluded from coverage under the system by action of the Board of Regents; or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2b, clause (7). The refunds must include accumulated contributions plus interest as provided in subdivision 2. These employees may apply for a refund once 30 days or more have elapsed after their coverage ceases, even if they continue in state service but in positions not covered by this chapter.

**History:** *1Sp2005 c 8 art 10 s 24*

### **352.275 UNCREDITED MILITARY SERVICE CREDIT PURCHASE.**

Subdivision 1. **Service credit purchase authorized.** A state employee who has at least three years of allowable service with the Minnesota State Retirement System and who performed service in the United States armed forces before becoming a state employee, or who failed to obtain service credit for a military leave of absence under section 352.27, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551 if the employee has not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.

*[For text of subs 2 and 3, see M.S.2004]*

**History:** 2005 c 10 art 5 s 4

### **352.87 STATE FIRE MARSHAL DIVISION EMPLOYEES.**

*[For text of subs 1 and 2, see M.S.2004]*

**Subd. 3. Retirement annuity formula.** A person specified in subdivision 1 is entitled to receive a retirement annuity applicable for allowable service credit under this section calculated by multiplying the employee's average salary, as defined in section 352.01, subdivision 14a, by the percent specified in section 356.315, subdivision 2a, for each year or portions of a year of allowable service credit. No reduction for retirement before the normal retirement age, as specified in section 352.01, subdivision 25, applies to service to which this section applies.

*[For text of subs 4 to 8, see M.S.2004]*

**History:** 1Sp2005 c 8 art 1 s 5

### **352.91 COVERED CORRECTIONAL SERVICE.**

*[For text of subs 1 to 3g, see M.S.2004]*

**Subd. 4a. Process for evaluating and recommending potential employment positions for membership inclusion.** (a) The Department of Corrections and the Department of Human Services must establish a procedure for evaluating periodic requests by department employees for qualification for recommendation by the commissioner for inclusion of the employment position in the correctional facility or human services facility in the correctional retirement plan and for periodically determining employment positions that no longer qualify for continued correctional retirement plan coverage.

(b) The procedure must provide for an evaluation of the extent of the employee's working time spent in direct contact with patients or inmates, the extent of the physical hazard that the employee is routinely subjected to in the course of employment, and the extent of intervention routinely expected of the employee in the event of a facility incident. The percentage of routine direct contact with inmates or patients may not be less than 75 percent.

(c) The applicable commissioner shall notify the employee of the determination of the appropriateness of recommending the employment position for inclusion in the correctional retirement plan, if the evaluation procedure results in a finding that the employee:

- (1) routinely spends 75 percent of the employee's time in direct contact with inmates or patients; and
- (2) is regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates or patients.

(d) After providing the affected employee an opportunity to dispute or clarify any evaluation determinations, if the commissioner determines that the employment position is appropriate for inclusion in the correctional retirement plan, the commissioner shall forward that recommendation and supporting documentation to the chair of the Legislative Commission on Pensions and Retirement, the chair of the State and Local Governmental Operations Committee of the senate, the chair of the Governmental Operations and Veterans Affairs Policy Committee of the house of representatives, and the executive director of the Legislative Commission on Pensions and Retirement in the form of the appropriate proposed legislation. The recommendation must be forwarded to the legislature before January 15 for the recommendation to be considered in that year's legislative session.

*[For text of subd 5, see M.S.2004]*

**History:** 1Sp2005 c 8 art 4 s 3

**352.93 RETIREMENT ANNUITY.**

Subdivision 1. **Basis of annuity; when to apply.** After separation from state service, an employee covered under section 352.91 who has reached age 55 years and has credit for at least three years of covered correctional service or a combination of covered correctional service and general employees state retirement plan service is entitled upon application to a retirement annuity under this section, based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

*[For text of subs 2 to 4, see M.S.2004]*

**History:** *1Sp2005 c 8 art 1 s 6*