

**353A.08 EFFECT ON BENEFIT COVERAGE.**

Subdivision 1. **Election of coverage by current retirees.** (a) A person who is receiving a service pension, disability benefit, or survivor benefit is eligible to elect benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage are limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments based on the amount of the benefit or pension payable on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, if other than December 31. The survivor benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage under the public employees police and fire fund benefit plan must be calculated under the relief association benefit plan and is subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments based on the amount of the survivor benefit payable.

(b) A survivor benefit calculated under the relief association benefit plan which is first payable after June 30, 1997, to the surviving spouse of a retired member of a consolidation account who, before July 1, 1997, chose to participate in the Minnesota postretirement investment fund as provided under this subdivision must be increased on the effective date of the survivor benefit on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board and approved by the actuary retained under section 356.214.

(c) By electing the public employees police and fire fund benefit plan, a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least seven months, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least seven months is eligible to receive a partial adjustment payable from the Minnesota postretirement investment fund under section 11A.18, subdivision 9.

(d) The election by any pension or benefit recipient must be made on or before the deadline established by the board of the Public Employees Retirement Association in a manner that recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Subd. 2. **Election of coverage by current deferred retirees.** (a) Any person who has terminated active employment as a police officer or firefighter, whichever applies, with the municipality, has sufficient credit for service to entitle the person to an eventual service pension and has not taken a refund of accumulated member contributions, if applicable, shall have the option to elect to have benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage shall be the provisions specified in subdivision 1.

The election shall be made when the person files an application for receipt of the deferred service pension and shall accompany that application.

(b) The retirement annuity for a deferred member of a consolidated local relief association which consolidated before July 1, 1997, who elected the relevant provisions of the public employees police and fire fund benefit plan under subdivision 1 must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board of trustees of the Public Employees Retirement Association and approved by the actuary retained under section 356.214.

Subd. 3. **Election of coverage by active members.** (a) A person who is an active member of a police or fire relief association, other than a volunteer firefighter, has the option to elect benefit coverage under the relevant provisions of the public employees police and fire fund or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage are the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including participation in the Minnesota postretirement investment fund, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

(b) An active member is eligible to make an election at one of the following times:

(1) within six months of the effective date of consolidation;

(2) between the date on which the active member attains the age of 49 years and six months and the date on which the active member attains the age of 50 years; or

(3) on the date on which the active member terminates active employment for purposes of receiving a service pension or disability benefits, or within 90 days of the date the member terminates active employment and defers receipt of a service pension, whichever applies.

Subd. 4. **Irrevocable election.** (a) Any election made under this section shall be irrevocable once it has been filed. Each election shall be made on a form prescribed by the executive director of the public employees retirement association and shall be filed with the executive director. If the current retiree, current benefit recipient, current deferred retiree, or current active member has, as of the effective date of consolidation or the election of benefit coverage, whichever applies, a spouse or other person who has reached the age of majority who under the benefit plan of the relief association would be entitled to receive a survivor benefit upon the death of the person making the election, the election made as provided in this section shall not be considered valid without a statement signed by the potential survivor and accompanying the election form which indicates that the potential survivor has been informed of the election and understands the consequences of the election.

(b) The election form, if validly executed and accompanied by any required statement or statements, shall be effective on the first day of the month next following its filing with the executive director of the public employees retirement association or the date of retirement, whichever is earlier. If the person making the election becomes disabled or dies before the effective date of the election, any disability or survivor benefits which are payable shall be governed by the existing benefit plan of the relief association.

(c) If the person entitled to make the election elects to retain coverage by the benefit plan of the relief association or fails to make the election in a timely fashion, the person shall have future pension or benefit payments governed by the provisions of the existing benefit plan of the relief association in effect on the effective date of consolidation.

Subd. 5. **Returning disabilitants; reemployed annuitants.** (a) A person who is receiving a disability benefit from a consolidating local relief association as of the effective date of the consolidation and who recovers sufficiently from that disability following the effective date of the consolidation to allow for a return to active employment as a police officer or firefighter, whichever applies, with the municipality in which the consolidating relief association was located retains eligibility to the local relief association benefit plan only and is not entitled to elect the public employees police and fire fund benefit plan as an active member, even if the public employees police and fire fund benefit plan was elected as a benefit recipient.

(b) A person who becomes disabled following the effective date of the consolidation is entitled to make a benefit plan coverage election as an active member upon the termination of

active employment and commencement of the disability benefit and, upon any return to active service, retains benefit plan coverage by the previously selected benefit plan coverage election.

(c) A person who retired from a consolidating local relief association after the effective date of the consolidation, who has elected coverage by the public employees police and fire fund benefit plan and who returns to active employment with an employing unit covered by the public employees retirement association following the effective date of consolidation is subject to the provisions of section 353.37.

Subd. 6. **Special benefit coverage.** (a) A person who would have otherwise been entitled to special benefit coverage under section 353A.02, subdivision 28, retains entitlement upon consolidation to that special benefit coverage notwithstanding the election which the person makes regarding other aspects of the benefit coverage under subdivision 1, 2, or 3. The special benefit coverage continues to be provided by the municipality and, if not provided through a contract with an insurance carrier authorized to do business in this state, must be funded on an actuarial basis using the relevant provisions of section 69.77, with the establishment by the municipality of a special account within the general fund of the municipality for this special benefit coverage. The chief administrative officer of the municipality shall manage the special benefit coverage. Disbursements must be limited to payments of the special benefit or benefits based on the relevant portion of the benefit plan of the relief association that existed as of the date on which consolidation is initiated.

(b) A special account in the general fund of a municipality established to provide special preexisting benefit plan coverage under this subdivision is not a supplemental pension plan under section 356.24 or a local governmental pension plan or fund under section 356.25.

Subd. 6a. **Military service contribution and refund.** A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, and who was otherwise eligible for automatic service credit for military service under Minnesota Statutes 2000, section 423.57, and who has not elected the type of benefit coverage provided by the public employees police and fire fund at the time of consolidation, must make employee contributions under section 353.01, subdivision 16, paragraph (h), to receive allowable service credit from the association for a military service leave after the effective date of the consolidation. A person who later elects, under subdivision 3, to retain benefit coverage under the bylaws of the local relief association is eligible for a refund from the association at the time of retirement. The association shall refund the employee contributions plus interest at the rate of six percent, compounded quarterly, from the date on which contributions were made until the first day of the month in which the refund is paid. The employer shall receive a refund of the employer contributions. The association shall not pay a refund to a person who later elects,

under subdivision 3, the type of benefit coverage provided by the public employees police and fire fund or to the person's employer.

Subd. 7. **Effect of coverage by local plan.** A person who, under this section, elects benefit coverage under the relief association benefit plan, or who fails to make a timely election of coverage under the public employees retirement association police and fire fund benefit plan, is a member of the relief association as administered by the Public Employees Retirement Association and has a right to benefits under the relief association benefit plan in effect on the effective date of the consolidation.

Subd. 8. **Counseling.** The executive director of the Public Employees Retirement Association shall undertake all reasonable efforts to provide any necessary benefit counseling to persons who are entitled to make or who are affected by an election, if benefit counseling is requested by the person.

**History:** 1987 c 296 s 15; 1991 c 341 s 30; 1992 c 432 art 2 s 31,32; 1993 c 307 art 4 s 40-42; 1994 c 528 art 2 s 13; 1997 c 233 art 1 s 44,45; 2002 c 392 art 1 s 3; art 11 s 52; 2006 c 271 art 3 s 47