

**352B.01 DEFINITIONS.**

Subdivision 1. **Scope.** In this chapter, each of the terms defined in this section has the meaning given to it.

Subd. 2. **Member.** "Member" means:

(1) a State Patrol member currently employed under section 299D.03 by the state, who is a peace officer under section 626.84, and whose salary or compensation is paid out of state funds;

(2) a conservation officer employed under section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds;

(3) a crime bureau officer who was employed by the crime bureau and was a member of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(4) a person who is employed by the state in the Department of Public Safety in a data processing management position with salary or compensation paid from state funds, who was a crime bureau officer covered by the State Patrol retirement plan on August 15, 1987, and who was initially hired in the data processing management position within the department during September 1987, or January 1988, with membership continuing for the duration of the person's employment in that position, whether or not the person has the power of arrest by warrant after August 15, 1987;

(5) a public safety employee who is a peace officer under section 626.84, subdivision 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling Enforcement under section 299L.01;

(6) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed by the Office of Special Investigations of the Department of Corrections and who is a peace officer under section 626.84;

(7) an employee of the Department of Commerce defined as a peace officer in section 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud Prevention under section 45.0135 after January 1, 2005, and who has not attained the mandatory retirement age specified in section 43A.34, subdivision 4; and

(8) an employee of the Department of Public Safety, who is a licensed peace officer under section 626.84, subdivision 1, paragraph (c), and is employed as the statewide coordinator of the Gang and Drug Oversight Council.

Subd. 2a. [Repealed, 1993 c 307 art 7 s 1]

Subd. 3. **Allowable service.** (a) "Allowable service" means:

(1) for members defined in subdivision 2, clause (1), service in any month for which payments have been made to the State Patrol retirement fund, and

(2) for members defined in subdivision 2, clauses (2) and (3), service for which payments have been made to the State Patrol retirement fund, service for which payments were made to the State Police officers retirement fund after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

(b) Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or return to employment.

(c) MS 2002 [Expired]

(d) Allowable service means service in a month during which a member is paid a salary from which a member contribution is deducted, deposited, and credited in the State Patrol retirement plan.

Subd. 3a. MS 2006 [Repealed, 2000 c 461 art 4 s 4; 1Sp2003 c 12 art 6 s 3; 2004 c 267 art 17 s 7; 2005 c 156 art 4 s 10; 1Sp2005 c 8 art 2 s 4]

Subd. 3b. **Credit for break in service to provide uniformed service.** (a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Subd. 4. **Department head.** "Department head" means the head of any department, institution, or branch of the state service that directly pays salaries from state funds to a member who prepares, approves, and submits salary abstracts of employees to the commissioner of finance.

Subd. 5. [Repealed, 1975 c 368 s 51]

Subd. 6. **Accumulated deductions.** "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in place of deductions, and credited to the member's individual account, without interest.

Subd. 7. **Fund.** "Fund" means the State Patrol retirement fund.

Subd. 8. [Repealed, 1983 c 128 s 36]

Subd. 9. **Surviving spouse.** "Surviving spouse" means a member's or former member's legally married spouse who resided with the member or former member at the time of death

and was married to the member or former member, for a period of at least one year, during or before the time of membership.

Subd. 10. **Dependent child.** "Dependent child" means a natural or adopted unmarried child of a deceased member under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member.

Subd. 11. **Average monthly salary.** (a) Subject to the limitations of section 356.611, "average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years.

(b) "Average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. "Average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

(c) A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

**History:** 1943 c 637 s 12; 1973 c 178 s 1; 1973 c 492 s 14; 1977 c 429 s 14; 1978 c 720 s 4; 1979 c 262 s 1; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 17-19; 1986 c 386 art 4 s 26; 1986 c 444; 1987 c 229 art 7 s 1; 1987 c 259 s 21; 1989 c 319 art 13 s 24; 1990 c 570 art 1 s 3; 1993 c 307 art 2 s 11; art 3 s 5; 1997 c 129 art 2 s 15; 2000 c 461 art 3 s 2; art 4 s 2; 1Sp2001 c 10 art 3 s 14; art 6 s 2,21; art 8 s 2; 2003 c 112 art 2 s 50; 1Sp2003 c 12 art 6 s 5; 2004 c 267 art 2 s 2; art 3 s 2; art 17 s 2; 2005 c 10 art 5 s 4; 1Sp2005 c 8 art 1 s 7; art 4 s 4; art 10 s 25-27; 2007 c 134 art 11 s 7