

**CHAPTER 352B**  
**STATE TROOPERS, RETIREMENT**

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**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

### **352B.02 STATE PATROL RETIREMENT FUND.**

Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is established. Its membership consists of all persons defined in section 352B.01, subdivision 2.

Subd. 1a. **Member contributions.** (a) Each member shall pay a sum equal to the following percent of the member's salary, which constitutes the member contribution to the fund:

before July 1, 2007	8.40
from July 1, 2007, to June 30, 2008	9.10
from July 1, 2008, to June 30, 2009	9.80
from July 1, 2009, and thereafter	10.40.

(b) These contributions must be made by deduction from salary as provided in section 352.04, subdivision 4.

Subd. 1b. **Salary deductions.** Member contribution amounts must be deducted each pay period by the department head, who shall have the total amount of the deductions paid to the commissioner of finance for deposit in the State Patrol retirement fund, and have a detailed report of all deductions made each pay period to the executive director of the Minnesota State Retirement System.

Subd. 1c. **Employer contributions.** (a) In addition to member contributions, department heads shall pay a sum equal to the following percent of the salary upon which deductions were

made, which shall constitute the employer contribution to the fund:

before July 1, 2007	12.60
from July 1, 2007, to June 30, 2008	13.60
from July 1, 2008, to June 30, 2009	14.60
from July 1, 2009, and thereafter	15.60.

(b) Department contributions must be paid out of money appropriated to departments for this purpose.

Subd. 1d. **Fund revenue and expenses.** The amounts provided for in this section must be credited to the State Patrol retirement fund. All money received must be deposited by the commissioner of finance in the State Patrol retirement fund. The fund must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities provided in this chapter. Appropriate amounts shall be transferred to or withdrawn from the Minnesota postretirement investment fund as provided in section 352B.26.

Subd. 1e. **Audit; actuarial valuation.** The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 must be prepared by the actuary retained under section 356.214. Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuation or experience studies must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Subd. 2. [Repealed, 1983 c 128 s 36]

**History:** 1943 c 637 s 1; 1947 c 577 s 1; 1949 c 627 s 2; 1957 c 869 s 1; 1959 c 642 s 1; 1961 c 493 s 1; 1965 c 889 s 1; 1967 c 244 s 1; 1969 c 693 s 1; 1969 c 1129 art 1 s 13 subd 2; 1973 c 178 s 2; 1973 c 755 s 1; 1976 c 163 s 62; 1978 c 646 s 1; 1981 c 37 s 2; 1981 c 224 s 61,274; 1982 c 397 s 1; 1983 c 128 s 20; 1984 c 564 s 17; 1987 c 229 art 7 s 1; art 11 s 1; 1987 c 259 s 22; 1990 c 591 art 2 s 4; 1995 c 262 art 3 s 1; 1997 c 233 art 1 s 29,30; 2003 c 112 art 2 s 50; 2004 c 223 s 2; 1Sp2005 c 8 art 10 s 28; 2006 c 271 art 1 s 6,7

**352B.021** [Repealed, 1975 c 368 s 51]

### **352B.03 OFFICERS, DUTIES.**

Subdivision 1. **Officers.** The policy-making, management, and administrative functions governing the operation of the State Patrol retirement fund are vested in the board of directors and executive director of the Minnesota State Retirement System with duties, authority, and responsibility as provided in chapter 352. Fiduciary activities of the fund must be undertaken in a

manner consistent with chapter 356A.

Subd. 2. **Duties of commissioner of finance.** The commissioner of finance is ex officio treasurer of the State Patrol retirement fund. The commissioner of finance's general bond to the state covers all liability for actions as treasurer of the fund.

All money of the fund received by the commissioner of finance under this chapter must be set aside in the state treasury and credited to the State Patrol retirement fund. The commissioner of finance shall transmit, monthly, to the director, a detailed statement showing all credits to and disbursements from the fund. The commissioner of finance shall disburse money from the fund only upon vouchers signed by the director.

**History:** 1943 c 637 s 2; 1973 c 178 s 3; 1973 c 492 s 14; 1975 c 368 s 37,38; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 21; 1986 c 444; 1987 c 229 art 7 s 1; 1989 c 319 art 8 s 13; 2003 c 112 art 2 s 40

**352B.04** [Repealed, 1975 c 368 s 51]

### **352B.05 INVESTMENTS.**

The State Board of Investment may invest and reinvest any portions of the State Patrol retirement fund not needed for immediate purposes. The executive director shall determine what funds may be invested. Money may be invested in securities authorized as legal investments for the Minnesota State Retirement System. The state board may sell, convey, and exchange securities and invest and reinvest the funds when it deems it desirable to do so. The state board shall sell securities upon request from the executive director when the executive director determines funds are needed for its purposes. Provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the Minnesota State Retirement System apply to the accounting, purchase, and sale of securities for the State Patrol retirement fund.

**History:** 1943 c 637 s 4; 1961 c 380 s 4; 1965 c 305 s 3; 1973 c 178 s 5; 1978 c 562 s 2; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 22; 1987 c 229 art 7 s 1

**352B.06** [Repealed, 1983 c 128 s 36]

**352B.061** [Repealed, 2Sp1981 c 1 s 8]

### **352B.07 ACTIONS BY OR AGAINST.**

The board may sue or be sued in the name of the board of directors of the state retirement system. In all actions brought by or against it, the board shall be represented by the attorney general. The attorney general shall also be the legal adviser for the board. Venue of all actions is in the Ramsey County District Court.

**History:** 1943 c 637 s 6; 1983 c 128 s 23; 1987 c 229 art 7 s 1

**352B.071 EXEMPTION FROM PROCESS.**

The provisions of section 356.401 apply to the State Patrol retirement plan.

**History:** 1973 c 178 s 8; 1983 c 128 s 24; 1984 c 547 s 5; 1987 c 157 s 4; 1987 c 229 art 7 s 1; 1997 c 203 art 6 s 92; 1Sp2005 c 8 art 10 s 29

**352B.075** [Repealed, 1981 c 224 s 276]

**352B.08 BENEFITS.**

Subdivision 1. **Eligibility; when to apply; accrual.** Every member who is credited with three or more years of allowable service is entitled to separate from state service and upon becoming 50 years old, is entitled to receive a life annuity, upon separation from state service. Members shall apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than 90 days before the date the member is eligible to retire by reason of both age and service requirements. An annuity begins to accrue no earlier than 180 days before the date the application is filed with the executive director.

Subd. 2. **Normal retirement annuity.** The annuity must be paid in monthly installments. The annuity shall be equal to the amount determined by multiplying the average monthly salary of the member by the percent specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service.

Subd. 2a. **Early retirement.** Any member who has become at least 50 years old and who has at least three years of allowable service is entitled upon application to a reduced retirement annuity equal to the annuity calculated under subdivision 2, reduced by one-tenth of one percent for each month that the member is under age 55 at the time of retirement.

Subd. 3. **Optional annuity forms.** In lieu of the single life annuity provided in subdivision 2, the member or former member may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the interest assumption specified in section 356.215, subdivision



8, and the board shall obtain the written recommendation of the actuary retained under section 356.214. These recommendations shall be a part of the permanent records of the board.

**History:** *1943 c 637 s 7; 1947 c 577 s 2; 1949 c 627 s 1; 1953 c 453 s 1-3; 1957 c 869 s 2-5; 1959 c 642 s 2-4; 1961 c 493 s 2; 1965 c 889 s 2,3; 1967 c 244 s 2; 1969 c 693 s 2; 1971 c 278 s 1; 1973 c 178 s 10; 1973 c 755 s 2; 1977 c 429 s 15; 1978 c 562 s 4; 1980 c 600 s 6; 1981 c 224 s 62; 1982 c 397 s 2; 1983 c 49 s 1; 1983 c 128 s 25; 1983 c 286 s 4; 1986 c 444; 1987 c 229 art 7 s 1; art 11 s 1; 1987 c 259 s 23; 1987 c 372 art 9 s 7; 1989 c 319 art 1 s 10; art 13 s 25; art 17 s 6,7; 1990 c 570 art 12 s 13,14; 1993 c 307 art 1 s 24,25; 1994 c 528 art 1 s 10; 1995 c 262 art 3 s 2; 1997 c 233 art 1 s 31,32; 1999 c 222 art 14 s 1; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47*

**352B.09** [Repealed, 1973 c 178 s 22]

### **352B.10 DISABILITY BENEFITS.**

Subdivision 1. **Injuries; payment amounts.** A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty, is entitled to receive disability benefits while disabled. The benefits must be paid in monthly installments. The benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

Subd. 2. **Disabled while not on duty.** If a member with at least one year of service becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment, the individual is entitled to disability benefits. The benefit must be computed as if the individual were 55 years old at the date of disability and the annuity was payable under section 352B.08. If a disability under this subdivision occurs after one year of service but before 15 years of service, the disability benefit must be computed as though the individual had credit for 15 years of service.

Subd. 3. **Annual and sick leave; work at lower pay.** No member is entitled to receive a disability benefit payment when the member has unused annual leave or sick leave, or under any other circumstances when, during the period of disability, there has been no impairment of salary. If the disabiltant resumes gainful employment, the disability benefit must be continued in an amount which, when added to current earnings, does not exceed the salary rate received by the person at the date of disability, which must be adjusted over time by the percentage increase in United States average wages used by the Social Security Administration in calculating average indexed monthly earnings for the old age, survivors, and disability insurance programs for the same period.

Subd. 4. **Proof of disability.** (a) No disability benefits may be paid unless adequate proof is furnished to the executive director of the existence of the disability.

(b) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disabilitant to submit proof of the continuance of the disability claimed.

Subd. 5. **Optional annuity.** A disabilitant may elect, in lieu of spousal survivorship coverage under section 352B.11, subdivisions 2b and 2c, the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days before reaching age 65 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age 65 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

**History:** 1943 c 637 s 8; 1957 c 869 s 6; 1959 c 642 s 5; 1961 c 493 s 3; 1965 c 889 s 4; 1969 c 693 s 3; 1973 c 178 s 11; 1973 c 755 s 3; 1975 c 359 s 23; 1977 c 429 s 16; 1981 c 68 s 14; 1Sp1985 c 7 s 8; 1986 c 444; 1987 c 229 art 7 s 1; 1989 c 319 art 1 s 11; art 17 s 8,9; 1992 c 464 art 1 s 40; 1993 c 307 art 2 s 12-14; 1995 c 262 art 3 s 3; 1996 c 438 art 2 s 3; 1997 c 233 art 1 s 33; 1Sp2001 c 10 art 3 s 15; 2002 c 392 art 11 s 52; 2004 c 267 art 8 s 8-12; art 9 s 6

#### **352B.101 APPLICATION FOR DISABILITY BENEFIT.**

A member claiming a disability benefit must file a written application for benefits in the office of the system in a form and manner prescribed by the executive director. The member shall provide medical or psychological evidence to support the application. The benefit begins to accrue the day following the start of disability or the day following the last day for which the member was paid, whichever is later, but not earlier than 180 days before the date the application is filed with the executive director.

**History:** 1983 c 128 s 26; 1987 c 229 art 7 s 1; 1993 c 307 art 1 s 26; 1Sp2001 c 10 art 3 s 16

#### **352B.105 TERMINATION OF DISABILITY BENEFITS.**

Disability benefits payable under section 352B.10 must terminate on the transfer date, which is the end of the month in which the disabilitant becomes 65 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the disabilitant is

still disabled on the transfer date, the disabilitant must be deemed to be a retired member and, if the disabilitant had chosen an optional annuity under section 352B.10, subdivision 5, must receive an annuity under the terms of the optional annuity previously chosen. If the disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the disabilitant may then choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen within 90 days of attaining the transfer date. If an optional annuity is chosen, the optional annuity accrues on the first of the month next following the transfer date.

**History:** 1969 c 693 s 4; 1973 c 178 s 12; 1981 c 68 s 15; 1983 c 128 s 27; 1987 c 229 art 7 s 1; 1992 c 464 art 1 s 41; 1993 c 307 art 2 s 15; 1995 c 141 art 3 s 5; 2004 c 267 art 8 s 13

### **352B.11 RETIREES.**

Subdivision 1. **Refund of payments.** (a) A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from the state service that entitled the member to membership.

(b) In the event of the member's death, if there are no survivor benefits payable under this chapter, a refund plus interest is payable to the last designated beneficiary on a form filed with the director before death, or if no designation is filed, is payable to the member's estate. Interest under this subdivision must be calculated as provided in section 352.22, subdivision 2. To receive a refund, the application must be made on a form prescribed by the executive director.

Subd. 2. **Death; payment to dependent children; family maximums.** Each dependent child, as defined in section 352B.01, subdivision 10, is entitled to receive a monthly annuity equal to ten percent of the average monthly salary of the deceased member. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity must cease at the end of the month of separation. In addition, a payment of \$20 per month must be prorated equally to the surviving dependent children when the former member is survived by more than one dependent child. Payments for the benefit of any dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary of the deceased member.

Subd. 2a. **Applications for survivor benefits.** An application for benefits under this section must be filed in the office of the system in a form and manner prescribed by the executive director.

The benefit shall begin to accrue the day following the date of death but shall not be retroactive for more than six months before the date the application is filed.

**Subd. 2b. Surviving spouse benefit eligibility.** (a) If an active member with three or more years of allowable service dies before attaining age 55, the surviving spouse is entitled to the benefit specified in subdivision 2c, paragraph (b).

(b) If an active member with less than three years of allowable service dies at any age, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (c).

(c) If an active member with three or more years of allowable service dies on or after attaining exact age 55, the surviving spouse is entitled to receive the benefits specified in subdivision 2c, paragraph (d).

(d) If a disablitant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (b).

(e) If a former member with three or more years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this chapter, dies, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (e).

(f) If a former member with less than three years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse is entitled to receive the refund specified in subdivision 2c, paragraph (f).

**Subd. 2c. Surviving spouse benefit entitlements.** (a) A surviving spouse specified in subdivision 2b is eligible to receive, following the filing of a valid application and consistent with any other applicable requirements, a benefit as specified in this subdivision. A 100 percent joint and survivor annuity under paragraph (b) must be computed assuming the exact age 55 for the deceased member and the age of the surviving spouse on the date of death. A 100 percent joint and survivor annuity under paragraph (d) or (e) must be computed using the age of the deceased member on the date of death and the age of the surviving spouse on that same date.

(b) For a surviving spouse specified in subdivision 2b, paragraph (a) or (d), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity, if this provides a larger benefit.

(c) For a surviving spouse specified in subdivision 2b, paragraph (b), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member.

(d) For a surviving spouse specified in subdivision 2b, paragraph (c), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member, or the second half of a 100 percent joint and survivor annuity, whichever is larger.

(e) For a surviving spouse specified in subdivision 2b, paragraph (e), the surviving spouse benefit is the second half of a 100 percent joint and survivor annuity, commencing on the first of the month next following the deceased member's date of death, or the first of the month next following the date on which the deceased member would have attained age 55, whichever is later.

(f) For a surviving spouse specified in subdivision 2b, paragraph (f), the surviving spouse or, if none, the children or, if none, the deceased member's estate, is entitled to a refund of the employee contributions plus interest computed as specified in subdivision 1.

**Subd. 2d. Coordination with workers' compensation benefits.** If the deceased member died under circumstances that entitle the surviving spouse and the dependent child or children to receive benefits under workers' compensation law, the workers' compensation benefits received by the deceased member's survivor or survivors must not be deducted from the benefits payable under this section.

**Subd. 3. Refund; effect.** When any member or former member accepts a refund, all existing service credits and all rights and benefits to which the member or former member was entitled before acceptance of the refund terminate.

**Subd. 4. Reentry into state service.** When a former member, who has become separated from state service that entitled the member to membership and has received a refund of retirement payments, reenters the state service in a position that entitles the member to membership, that member shall receive credit for the period of prior allowable state service if the member repays into the fund the amount of the refund, plus interest on it at an annual rate of 8.5 percent compounded annually, at any time before subsequent retirement. Repayment may be made in installments or in a lump sum.

**Subd. 5. Death of annuitant or beneficiary.** If a retired member who did not select an optional annuity under section 352B.08, subdivision 3, dies or if the last eligible recipient of an optional annuity under section 352B.08, subdivision 3, dies and the total amounts paid as an annuity are less than the accumulated member contributions under section 352B.02, subdivision 1a, to the credit of the retired member on the date of retirement, the surviving spouse, or if none, the former member's surviving children in equal shares, or if none, the last recipient's estate is entitled, upon application, to a refund. The refund is equal to the balance of accumulated member

contributions under section 352B.02, subdivision 1a, remaining after subtracting the total amount of benefits paid to the decedent.

**History:** *1943 c 637 s 9; 1953 c 453 s 4; 1957 c 869 s 7,8; 1959 c 642 s 6; 1961 c 493 s 4; 1965 c 889 s 5; 1967 c 244 s 3,4; 1969 c 693 s 5; 1971 c 278 s 2; 1973 c 70 s 1; 1973 c 178 s 13; 1973 c 755 s 4; 1975 c 359 s 23; 1978 c 646 s 2; 1979 c 50 s 41; 1981 c 37 s 2; 1981 c 224 s 63,274; 1982 c 397 s 3,4; 1983 c 128 s 28-30; 1984 c 564 s 18,19; 1986 c 444; 1987 c 229 art 7 s 1; 1987 c 372 art 9 s 8; 1989 c 319 art 1 s 12; art 13 s 26,27; art 17 s 10; 1990 c 570 art 12 s 15,16; 1991 c 34 s 1; 1991 c 269 art 2 s 2; 1992 c 598 art 1 s 7; 1993 c 307 art 2 s 16; 1996 c 438 art 1 s 2; 2004 c 267 art 9 s 7-11*

**352B.12** [Repealed, 1973 c 178 s 22]

**352B.13** [Repealed, 1983 c 128 s 36]

**352B.131** [Repealed, 1993 c 307 art 7 s 1]

**352B.14** [Repealed, 1993 c 307 art 7 s 1]

**352B.15** [Repealed, 1973 c 178 s 22]

**352B.16** [Repealed, 1973 c 178 s 22]

**352B.17** [Repealed, 1973 c 178 s 22]

**352B.18** [Repealed, 1973 c 178 s 22]

**352B.19** [Repealed, 1973 c 178 s 22]

**352B.20** [Repealed, 1973 c 178 s 22]

**352B.21** [Repealed, 1973 c 178 s 22]

**352B.22** [Repealed, 1973 c 178 s 22]

**352B.23** [Repealed, 1973 c 178 s 22]

**352B.24** [Repealed, 1973 c 178 s 22]

### **352B.25 CONTINUING APPROPRIATION; PAYMENT OF PENSION FUNDS BY INDIVIDUALS.**

The State Patrol retirement fund and the participation in the Minnesota postretirement investment fund must be disbursed only for the purposes provided in this chapter. The expenses of the system and any benefits or annuities provided in this chapter, other than benefits payable from the Minnesota postretirement investment fund, must be paid from the State Patrol retirement

fund. The amounts necessary to make the payments from the State Patrol retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from those funds for those purposes.

**History:** 1969 c 693 s 17; 1973 c 178 s 17; 1980 c 607 art 14 s 45 subd 2; 1980 c 614 s 138; 1981 c 37 s 2; 1981 c 224 s 274; 1987 c 229 art 7 s 1

### **352B.26 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.**

Subdivision 1. **Authorization.** The State Patrol retirement fund shall participate in the Minnesota postretirement investment fund. Assets required by this section must be deposited in the fund. Amounts shall be withdrawn from the fund only to pay annuities as provided. The money is annually appropriated for this purpose.

Subd. 2. [Repealed, 1987 c 259 s 83]

Subd. 3. **Valuation of assets; adjustment of benefits.** (a) For former members beginning receipt of annuities and qualified recipients of joint and survivor annuities and surviving spouse benefits, the required reserves must be determined in accordance with the appropriate mortality table adopted by the board of directors of the Minnesota State Retirement System based on the experience of the fund as recommended by the actuary retained under section 356.214 and using the interest assumption specified in section 356.215, subdivision 8. Assets representing the required reserves for these annuities must be transferred to the Minnesota postretirement investment fund as of the last business day of the month in which the retirement annuity begins as specified in section 11A.18.

(b) Annuity payments must be adjusted in accordance with section 11A.18.

(c) An increase in annuity payments under this section must be made automatically unless written notice is filed by the annuitant with the executive director of the Minnesota State Retirement System requesting that the increase not be made.

**History:** 1969 c 977 s 1; 1971 c 414 s 8; 1973 c 178 s 18; 1978 c 562 s 7,8; 1980 c 607 art 14 s 36,45 subd 2; s 46; 1981 c 37 s 2; 1981 c 224 s 64,65; 1Sp1985 c 7 s 35; 1987 c 229 art 7 s 1; art 11 s 1; 1987 c 259 s 24; 1996 c 305 art 1 s 76; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47

**352B.261** [Repealed, 1993 c 307 art 7 s 1]

**352B.262** [Repealed, 1993 c 307 art 7 s 1]

**352B.265** [Repealed, 1996 c 310 s 1]

### **352B.27 SAVINGS CLAUSE.**

Subdivision 1. **Earlier retirement laws.** The rights, privileges, annuities, and benefits,

whether presently accrued or to accrue in the future, extended to those persons designated or described in Laws 1967, chapter 244, section 4; Laws 1969, chapter 693, sections 15 and 17; Laws 1971, chapter 278, section 3; and Laws 1971, chapter 543, section 1 continue in effect as provided, notwithstanding any law to the contrary.

Subd. 2. **Benefits to continue.** Except as otherwise specifically provided in this chapter, all persons who on May 8, 1973, are receiving any benefit, annuity, or payment from the Highway Patrol officers' retirement fund shall, after May 8, 1973, receive the same benefit, annuity, or payment from the fund.

**History:** 1973 c 178 s 19; 1986 c 444; 1987 c 229 art 7 s 1

**352B.28** [Repealed, 1993 c 307 art 7 s 1]

### **352B.29 HIGHWAY PATROLMEN'S RETIREMENT ASSOCIATION; TRANSFER OF FUNCTIONS.**

Notwithstanding other provisions of this chapter and chapter 352, effective July 1, 1973, all powers, duties, responsibilities, books, papers, and records of the Highway Patrolmen's Retirement Association and of the officers of the Highway Patrolmen's Retirement Association are transferred to the Minnesota State Retirement System. The officers of the Highway Patrolmen's Retirement Association as constituted under this chapter as amended are abolished.

**History:** 1973 c 755 s 7; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 63 s 2; 1987 c 229 art 7 s 1

### **352B.30 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.**

Subdivision 1. **Entitlement to annuity.** Any person who has been an employee covered by the Minnesota State Retirement System, or a member of the Public Employees Retirement Association including the Public Employees Retirement Association Police and Fire Fund, or the Teachers Retirement Association, or the State Patrol retirement fund, or any other public employee retirement system in Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals three or more years. No part of the allowable service upon which the retirement annuity from one fund is based may again be used in the computation for benefits from another fund. The member must not have taken a refund from any one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate law except that the requirement that a person must have at least three years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals three



or more years.

**Subd. 2. Computation of deferred annuity.** Deferred annuities must be computed according to this chapter on the basis of allowable service before termination of service and augmented as provided in this chapter. The required reserves applicable to a deferred annuity must be augmented by interest compounded annually from the first day of the month following the month in which the member terminated service, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be five percent per year compounded annually until January 1, 1981, and after that date three percent per year compounded annually if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. The mortality table and interest assumption used to compute the annuity shall be those in effect when the member files application for annuity.

**Subd. 3. Refund repayment.** A person who has received a refund from the State Patrol retirement fund who is a member of a public retirement system included in subdivision 1, may repay the refund with interest to the State Patrol retirement fund as provided in section 352B.11, subdivision 4.

**Subd. 4. 1997 postretirement fund interest changes.** The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former member who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, 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 and approved by the actuary retained under section 356.214.

**History:** 1975 c 368 s 40; 1977 c 429 s 63; 1978 c 796 s 11; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 31; 1986 c 444; 1987 c 229 art 7 s 1; 1987 c 372 art 9 s 9; 1989 c 319 art 13 s 28; 1990 c 426 art 1 s 43; 1997 c 233 art 1 s 34; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47; 2006 c 277 art 2 s 3