

356.611 LIMITATION ON PUBLIC EMPLOYEE SALARIES FOR PENSION PURPOSES.

Subdivision 1. [Repealed, 2005 c 169 s 2]

Subd. 2. **Federal compensation limits.** (a) For members of a covered pension plan enumerated in section 356.30, subdivision 3, and of the plan established under chapter 353D, compensation in excess of the limitation specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a plan specified in that paragraph before July 1, 1995, the annual compensation limit specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies if that provides a greater allowable annual compensation.

Subd. 3. **Maximum benefit limitations.** A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the federal Internal Revenue Code, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code for any applicable increases in the cost of living after the member's termination of employment. For purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable.

Subd. 3a. **Maximum annual addition limitation.** The annual additions on behalf of a member to the plan established under chapter 352D or 353D for any limitation year beginning after December 31, 2001, shall not exceed the lesser of 100 percent of the member's compensation, as defined for purposes of section 415(c) of the Internal Revenue Code; or \$40,000, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code.

Subd. 4. **Compensation.** (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year including items described in federal treasury regulation section 1.415 (c)-2(b) and excluding items described in federal treasury regulation section 1.415 (c)-2(c).

(b) Compensation for any period includes:

- (1) any elective deferral as defined in section 402(g)(3) of the federal Internal Revenue Code;
- (2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the federal Internal Revenue Code; and
- (3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the federal Internal Revenue Code.

History: *1994 c 528 art 4 s 11; 1995 c 262 art 1 s 15; 2002 c 392 art 11 s 43; 2004 c 267 art 2 s 6-8; art 10 s 1; 1Sp2005 c 8 art 1 s 23; 2007 c 13 art 2 s 17; 2008 c 349 art 5 s 33,34,37; 2009 c 169 art 4 s 43,44*