

**353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIREFIGHTER.**

Subdivision 1. **Police and fire plan membership; mandatory.** A governmental subdivision must report a public employee for membership in the police and fire plan if the employee is employed full time as specified in clause (1), (2), or (3):

(1) a full-time police officer or a person in charge of a designated police or sheriff's department, who by virtue of that employment is required by the employing governmental subdivision to be and is licensed by the Minnesota peace officer standards and training board under sections 626.84 to 626.863, who is charged with the prevention and detection of crime, who has the full power of arrest, who is assigned to a designated police or sheriff's department, and whose primary job is the enforcement of the general criminal laws of the state;

(2) a full-time firefighter or a person in charge of a designated fire company or companies who is engaged in the hazards of firefighting; or

(3) a full-time police officer or firefighter meeting all requirements of clause (1) or (2), as applicable, who as part of the employment position is periodically assigned to employment duties in the same department that are not within the scope of this subdivision.

An individual to which clause (3) applies must contribute as a member of the police and fire plan for both the primary and secondary services that are provided to the employing governmental subdivision.

Subd. 1a. **Police and fire plan; other members.** (a) A person who prior to July 1, 1961, was a member of the police and fire plan, by virtue of being a police officer or firefighter, shall, as long as the person remains in either position, continue membership in the plan.

(b) A person who was employed by a governmental subdivision as a police officer and was a member of the police and fire plan on July 1, 1978, by virtue of being a police officer as defined by this section on that date, and if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, continues to be a member of the plan, whether or not that person has the power of arrest by warrant and is licensed by the Peace Officers Standards and Training Board after that date.

(c) A person who was employed as a correctional officer by Rice county before July 1, 1998, for the duration of employment in the correctional position held on July 1, 1998, continues to be a member of the public employees police and fire plan, whether or not the person has the power of arrest by warrant and is licensed by the Peace Officers Standards and Training Board after that date.

(d) A person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire plan, shall become a member of the police and fire plan after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date.

(e) Any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire plan as provided in sections 353A.01 to 353A.10, or any police officer or firefighter to whom section 353.665 applies who has not elected coverage by the public employees police and fire plan

as provided in section 353.665, subdivision 4, must become a member of the public employees police and fire plan, but is not subject to the provisions of sections 353.651 to 353.659 unless an election for such coverage is made under section 353.665, subdivision 4.

**Subd. 2. Police and fire fund membership; part-time employment coverage option.** (a) The governing body of a governmental subdivision may adopt a resolution, subject to requirements specified in paragraph (b), declaring that a public employee employed in a position on a part-time basis by that governmental subdivision is covered by the police and fire plan for that employment.

(b) If the public employee's position is related to police service, the resolution is valid if the conditions specified in paragraph (c) are met. If the public employee's position is related to fire service, the resolution is valid if the conditions specified in paragraph (d) are met. If the public employee in the applicable position is periodically assigned to employment duties not within the scope of this subdivision, the resolution is considered valid if the governing body of the governmental subdivision declares that the public employee's position, for primary services provided, satisfies all of the requirements of subdivision 1, clause (3), other than the requirement of full-time employment.

(c) For the governing body of the governmental subdivision to declare a position to be that of a police officer, the duties and qualifications of the person so employed must, at a minimum, satisfy all of the requirements of subdivision 1, clause (1), other than the requirement of full-time employment.

(d) For the governing body of a governmental subdivision to declare a position to be that of a firefighter, the duties and qualifications of the person so employed must, at a minimum, satisfy all of the requirements of subdivision 1, clause (2), other than the requirement of full-time employment.

**Subd. 3. Police and fire fund membership; exclusion.** A police officer or firefighter employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire plan is not eligible to become a member of the public employees police and fire plan.

**Subd. 4. Resolution filing.** (a) A copy of the resolution of the governing body declaring a position to be that of police officer or firefighter shall be promptly filed with the board of trustees and shall be irrevocable.

(b) Following the receipt of adequate notice from the association, if a valid resolution is not filed with the public employees retirement association within six months following the date of that notice, any contributions or deductions made to the police and fire fund for the applicable employment are deemed to be contributions or deductions transmitted in error under section 353.27, subdivision 7a.

**Subd. 5.** [Repealed, 1977 c 429 s 65]

**Subd. 5a. Transfers.** A member of the police and fire fund continues to be a member of that fund if transferred to a different position with associated police or fire department functions in the same department or a related department in the same governmental subdivision provided the governing body sends a copy of a resolution to that effect to the association. A police and fire fund member who is elected or assumes an appointive position, including but not limited to, the positions of city council member, city manager, and finance director is not eligible to retain membership in the public employees police and fire fund.

Subd. 6. [Repealed, 1987 c 284 art 5 s 18]

Subd. 6a. **University of Minnesota police officers; inclusions and exclusions.** (a) Unless paragraph (b) applies, a person who is employed as a peace officer by the University of Minnesota at any campus or facility of the university, who is required by the university to be and is licensed as a peace officer by the Minnesota Peace Officer Standards and Training Board under sections 626.84 to 626.863, and who has the full power of arrest is a member of the public employees police and fire retirement plan.

(b) A police officer employed by the University of Minnesota who is required by the Board of Regents to contribute to the University of Minnesota faculty retirement plan is not eligible to be a member of the public employees police and fire retirement plan.

Subd. 7. **Pension coverage for public safety employees of Metropolitan Airports Commission.** Any person first employed as either a full-time firefighter or a full-time police officer by the Metropolitan Airports Commission who is not eligible for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to municipal employees because that position is excluded from application under section 355.07 and United States Code, title 42, sections 418 (d)(5)(A) and 418 (d)(8)(D), is a member of the public employees police and fire fund and is deemed to be a firefighter or a police officer within the meaning of this section. The Metropolitan Airports Commission shall make the employer contribution required under section 353.65, subdivision 3, with respect to each of its firefighters or police officers covered by the public employees police and fire fund and shall meet the employers recording and reporting requirements set forth in section 353.65, subdivision 4.

Subd. 7a. **Pension coverage for certain metropolitan transit police officers.** A person who is employed as a police officer on or after the first day of the first payroll period after July 1, 1993, by the Metropolitan Council and who is not eligible for coverage under the agreement with the Secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act because the person's position is excluded from application under United States Code, sections 418(d)(5)(A) and 418(d)(8)(D), and under section 355.07, is a member of the public employees police and fire fund and is considered to be a police officer within the meaning of this section. The Metropolitan Council shall deduct the employee contribution from the salary of each police officer as required by section 353.65, subdivision 2, shall make the employer contribution for each police officer as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

Subd. 8. **Pension coverage for certain state military affairs department firefighters.** A person who is employed as a full-time firefighter on or after the first day of the first payroll period after June 10, 1987, by the Department of Military Affairs of the state of Minnesota and who is not eligible for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to state employees because the person's position is excluded from application under United States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D) and section 355.07, is a member of the public employees police and fire fund and is considered to be a firefighter within the meaning of this section. The state Department of Military Affairs shall make the employee contribution deduction from the salary of each full-time Military Affairs Department firefighter as required by section 353.65, subdivision 2,

shall make the employer contribution with respect to each firefighter as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

**Subd. 9. Pension coverage for certain sheriffs' association employees.** (a) A former member of the association who is an employee of the Minnesota Sheriffs' Association may elect to be a police and fire fund member with respect to service with the sheriffs' association, if written election to be covered is delivered to the board within 60 days after July 1, 1989, or within 60 days after commencement of employment, whichever is later.

(b) Employee and employer contributions for past service are the obligation of the employee, except that the Minnesota sheriffs' association may pay the employer contributions. The employer shall, in any event, deduct necessary future contributions from the employee's salary and remit all contributions to the association as required by this chapter.

(c) Persons who become association members under this section shall not be eligible for election to the board of trustees.

**Subd. 10. Pension coverage for Hennepin Healthcare System, Inc.; paramedics and emergency medical technicians.** An employee of Hennepin Healthcare System, Inc. who is:

(1) certified as a paramedic or emergency medical technician by the state under section 144E.28, subdivision 4;

(2) employed full time as a paramedic or emergency medical technician by Hennepin County on or after the effective date specified in Laws 1994, chapter 499, section 2; and

(3) not eligible after the effective date under Laws 1994, chapter 499, section 2, for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to paramedics and emergency medical technicians because the person's position is excluded after that date from application under United States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D), and section 355.07;

is a member of the public employees police and fire fund under sections 353.63 to 353.68.

Hennepin Healthcare System, Inc. shall deduct the employee contribution from the salary of each full-time paramedic and emergency medical technician it employs as required by section 353.65, subdivision 2, shall make the employer contribution for each full-time paramedic and emergency medical technician it employs as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

**Subd. 11. Pension coverage for certain tribal police officers exercising state arrest powers.** (a) The governing body of a tribal police department which is exercising state arrest powers under section 626.90, 626.91, 626.92, or 626.93 may request by resolution to the executive director that its police officers be considered public employees under section 353.01, subdivision 2, be considered a police officer under section 353.64, subdivision 1, and become members of the public employees police and fire retirement plan and that the tribal police department be considered a governmental subdivision under section 353.01, subdivision 6.

(b) Following the approval of the request by the executive director, the head of the police department or that person's designee must immediately report for membership in the police and fire fund a person who is employed as a full-time or part-time police officer in a position that meets the conditions in sections 353.01, subdivision 2a, and 353.64, subdivisions 1 and 2. The police

department head or that person's designee must deduct the employee contributions from the salary of each eligible police officer as required by section 353.65, subdivision 2, and make the employer contributions required by section 353.65, subdivision 3. The head of the police department or that person's designee must meet the reporting requirements in section 353.65, subdivision 4.

**History:** 1959 c 650 s 32; 1961 c 743 s 1; 1963 c 641 s 34; 1978 c 720 s 7; 1979 c 216 s 17; 1979 c 262 s 2; 1981 c 180 s 14,15; 1981 c 224 s 95; 1981 c 298 s 11; 1982 c 404 s 8; 1987 c 284 art 5 s 12,13; 1987 c 296 s 5; 1987 c 372 art 1 s 6; 1989 c 319 art 3 s 19-21; art 11 s 1; 1991 c 341 s 22; 1992 c 432 art 2 s 17; 1993 c 307 art 4 s 31-33; 1994 c 499 s 1; 1994 c 628 art 3 s 31; 1997 c 7 art 1 s 129; 1997 c 199 s 14; 1999 c 222 art 4 s 7; art 14 s 2; 1999 c 245 art 9 s 65; 2000 c 461 art 3 s 19-22; art 7 s 2; 2002 c 392 art 3 s 8; 2005 c 125 art 1 s 29; art 3 s 4,7; 1Sp2005 c 7 s 34; 1Sp2005 c 8 art 4 s 6; 2008 c 349 art 5 s 22; 2010 c 359 art 11 s 18