

354B.21 COVERAGE.

Subdivision 1. **Eligibility.** The following persons are eligible to have coverage by the individual retirement account plan or coverage by another plan as further specified in this section:

- (1) employees of the board who are employed as faculty in an employment classification included in the state university instructional unit or the state college instructional unit under section 179A.10, subdivision 2;
- (2) the chancellor and employees of the board in eligible unclassified administrative positions;
- (3) the employees in eligible unclassified administrative positions in the state universities;
- (4) the employees in eligible unclassified administrative positions in the technical colleges; and
- (5) the employees in eligible unclassified administrative positions of the Minnesota Office of Higher Education or of the community colleges.

Subd. 1a. **Required notice; counseling.** (a) No later than 90 days before the end of any applicable election period specified in this section, the employer must provide to a person beginning work in a position subject to this section for which an option to elect alternative retirement plan coverage is authorized the following information:

- (1) the default retirement coverage;
- (2) election procedures, if applicable, for electing coverage other than the default coverage; and
- (3) the Web site and the telephone number for the plan providing default coverage and comparable information for the plan which the person is eligible to elect.

(b) The election of coverage forms must include a certification statement that the employee has received and reviewed materials on the optional coverage and the default coverage prior to making the election.

Subd. 2. **Coverage; election.** (a) An eligible person employed by the board has the default coverage specified in subdivision 3, or other subdivisions of this section, whichever is applicable, and retains that coverage for the period of covered employment unless a timely election to change that coverage is made as specified in this section.

(b) An eligible person under subdivision 3, paragraph (b) or (c), is authorized to elect prospective Teachers Retirement Association plan coverage.

(c) An eligible person under subdivision 3, paragraph (d), is authorized to elect prospective coverage by the plan established by this chapter.

(d) The election under paragraph (a) must be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. Except as specified in paragraph (f), all elections are irrevocable.

(e) Except as provided in paragraph (f), a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and Universities system employment occurring before the election under this section is prohibited.

(f) Notwithstanding other paragraphs in this subdivision, a faculty member who is a member of the individual retirement account plan may elect to transfer retirement coverage to the teachers retirement plan within one year of the faculty member first achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source.

Subd. 3. **Default coverage.** (a) Prior to making an election under subdivision 2, or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the coverage specified in this subdivision applies.

(b) If an eligible person is employed by the board before July 1, 2011, in an eligible unclassified administrative position or in a faculty position in a technical college, community college, or state university, the retirement coverage is by the plan established by this chapter, unless otherwise specified in this section.

(c) An eligible person described in paragraph (b), except that first employment by the board is on or after July 1, 2011, has retirement coverage by the plan established by this chapter if the eligible person has no:

(1) allowable service credit in any plan listed in section 356.30, subdivision 3; or

(2) prior employment covered by the state unclassified employees retirement program under chapter 352D.

(d) An eligible person described in paragraph (c) has retirement coverage by the Teachers Retirement Association if the person has:

(1) prior employment covered by the state unclassified employees retirement program under chapter 352D and has not withdrawn or transferred assets from that account; or

(2) allowable service credit in a plan listed in section 356.30, subdivision 3.

(e) To ensure that coverage is provided by the proper plan, the employee must certify to the board the existence of any service credit in any plan listed in section 356.30, subdivision 3, or whether the person retains a state unclassified employees retirement program account. If an employee fails to correctly certify prior membership in a plan or the existence of an unclassified program account, the Minnesota State Colleges and Universities system and its board shall be held harmless, and notwithstanding any law to the contrary, any resulting cost or financial liability becomes the employee's responsibility.

Subd. 3a. **Plan coverage and election; certain past service technical college faculty.** (a) Notwithstanding subdivision 3, if an employee of the board was employed in a faculty position in a technical college on June 30, 1997, with coverage by the Teachers Retirement Association, the employee retains that coverage. If the employee was a technical college faculty member on June 30, 1995, covered by a first

class city teacher retirement fund established under chapter 354A, the retirement coverage continues with the St. Paul Teachers Retirement Fund Association, whichever is applicable. If the person was a technical college faculty member on June 30, 1995, covered by the former Minneapolis Teachers Retirement Fund Association or the former Duluth Teachers Retirement Fund Association, the Teachers Retirement Association shall provide coverage.

(b) An employee under paragraph (a) who has coverage by the St. Paul Teachers Retirement Fund Association retains that coverage for the duration of the person's employment by the board unless, within one year of a change in employment within the Minnesota State Colleges and Universities system, the person elects the individual retirement account plan for all future employment by the board. The election is irrevocable.

Subd. 3b. Coverage of certain former technical college faculty members. A person who was employed as a teacher by a technical college before July 1, 1995, and who subsequently is reclassified into a different employment position while continuing to perform the same or essentially the same employment duties and consequently shifts from the technical college instructional collective bargaining unit to another state collective bargaining unit retains coverage by the Teachers Retirement Association or the applicable first class city teachers retirement fund association, whichever applies.

Subd. 3c. [Repealed, 1Sp2011 c 8 art 2 s 22]

Subd. 4. Coverage in the event of acting, interim, or temporary appointments. (a) A person previously employed by the board and subsequently appointed by the board to an acting, interim, or temporary faculty or eligible unclassified administrative position by the board retains the retirement coverage that the person had in the prior board position. If the participant's status becomes permanent, the participant has the option to make an election of retirement coverage appropriate to the retirement plan in which the employment position should have retirement coverage consistent with subdivision 2.

(b) A person who is appointed to an acting, interim, or temporary faculty position by the board and who was not employed in a faculty position by the board immediately before that appointment must elect coverage as provided in subdivision 2.

Subd. 5. Payment for certain prior uncovered service. (a) A person employed in a faculty position or in an eligible unclassified administrative position by the board who was initially excluded from participation in the individual retirement account plan coverage, who was not covered by any other Minnesota public pension plan for that service, and who is subsequently eligible to participate in the individual retirement account plan may make member contributions for that period of prior uncovered teaching employment or eligible unclassified administrative employment with the board.

(b) The member contributions for prior uncovered board service are the amount that the person would have paid if the prior service had been covered employment. The payment must be made to the individual retirement account plan administrator and may be made only by payroll deduction. The payment must be made by the later of:

- (1) 45 days of the start of covered employment; or
- (2) the end of the fiscal year in which covered employment began.

(c) The board must contribute an amount to match any contribution made by a plan participant under this subdivision.

(d) Payments of contributions for prior uncovered board service under this subdivision must be invested in the same manner as the regular contributions made by or on behalf of the plan participant.

Subd. 6. **Continuation of coverage.** Except as otherwise specified in this section, once a person is employed in a position that qualifies for participation in the individual retirement account plan and elects to participate in the plan, all subsequent service by the person as a faculty member or in an eligible unclassified administrative position employed by the board or other employing unit is covered by the individual retirement account plan.

Subd. 7. **Coverage; certain part-time employees.** A person employed in a part-time faculty position or in a part-time eligible unclassified administrative position who does not meet the definition of covered employment under section 354B.20, subdivision 4, because the employment does not meet the threshold required under that provision, must certify prior membership in the Teachers Retirement Association to the Minnesota State Colleges and Universities system. If the certification is incorrect, the employee, and not the employer, is required to pay interest on the employee and employer contributions, and, if applicable, on the employer additional contributions to the Teachers Retirement Association under section 354.52, subdivision 4.

History: 1995 c 141 art 4 s 9; 1995 c 212 art 3 s 59; art 4 s 64; 1997 c 241 art 8 s 5; 2001 c 133 s 3; 2005 c 107 art 2 s 60; 1Sp2005 c 8 art 4 s 7,8; 2007 c 134 art 1 s 9; 2009 c 169 art 6 s 3; 1Sp2011 c 8 art 2 s 12-19; 2014 c 296 art 6 s 30,49; art 8 s 6