

CHAPTER 238—S. F. No. 1451

An act to amend Laws 1929, Chapter 191, Sections 1, 2, 4, 6, 9, 10, 11; to re-number and amend Sections 15, 16 and 17 thereof, as amended by Laws 1931, Chapter 351, Sections 1, 2, 4, 6, 9, 10, 11, 15, 16 and 17; to repeal Laws 1929, Chapter 191, Section 12, as amended by Laws 1931, Chapter 351, Section 12; to repeal Laws 1929, Chapter 191, Section 13, and Laws 1933, Chapter 326; to amend Laws 1929, Chapter 191, Section 5, and to amend and re-number Laws 1929, Chapter 191, Sections 14, 18, 19, 20, 21 and 22, and to add thereto a new section as Section 21; relating to state employes retirement fund.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Law amended.—Laws 1929, Chapter 191, Sections 1, 2, 4, 6, 9, 10, 11, 15, 16 and 17, as amended by Laws 1931, Chapter 351, Sections 1, 2, 4, 6, 9, 10, 11, 15, 16 and 17, is amended and re-numbered so as to read as follows:

“Section 1. **Words and phrases defined.**—That the following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

1. “State Employee” shall mean any person holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid either by warrants of the state auditor or from the fees or income of any department or agency of the state, excepting court commissioners, district judges, and the president, deans, professors, and instructors in the state university and in the state teachers’ colleges, but shall not include temporary employes. *Any employe who has been employed for a period of over six months continuously shall become a member, any classification of employes as temporary, permanent, or otherwise, by the head of any department, or any commission or agency of the state notwithstanding.*

2. “Head of Department” shall mean the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary abstracts of its employes to the state auditor and state treasurer.

3. “Accumulated Deductions” shall mean the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such de-

ductions and credited to his or her individual account in the retirement fund, without interest.

4. "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon.

Section 2. State employees retirement association created.
—There is hereby established a state employees retirement association the membership of which shall consist only of state employes. Membership in such association shall be optional on the part of persons in the employ of the state on July 1, 1929, but all new state employes *entering the service of the state after July 1, 1929*, except elective state officers shall become members of said association by acceptance of state employment *and the head of the department shall thereupon cause deductions to be made from the salary of such new employes*. Persons in the employ of the state on July 1, 1929, who apply for membership in the retirement association prior to January 1, 1930, shall pay a membership fee of One Dollar (\$1.00) and persons in the employ of the state on July 1, 1929, who apply for membership therein after January 1, 1930, shall pay a membership fee of Ten Dollars (\$10.00), but no person in the employ of the state on July 1, 1929, shall be eligible to apply for membership in the retirement association after July 1, 1931. In addition to such membership fee, every person in the employ of the state on July 1, 1929, who becomes a member of the retirement association shall pay in a sum equal to all accrued deductions from his or her salary which would have been made had such employe become a member of the retirement association July 1, 1929, with interest thereon at the rate of four per cent per annum compounded annually.

Section 4. Payment into retirement fund.—1. Every member of the retirement association shall pay into the retirement fund three and one-half per cent ($3\frac{1}{2}\%$) of his or her regular salary, *which shall be taken to mean the rate of salary payable to the member on the first day of each regular payroll period and shall be considered as continuing throughout such payroll period, including overtime*, such payments shall be made by deduction thereof from such salary. The head of each department is hereby directed to cause such deduction to be made at least once each month from the salary of each

member of the retirement association *on the department payroll* and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered, by said *payroll*, provided that deductions from salaries of employes paid direct by any department, institution or agency of the state shall be made by the officer or employe authorized by law to pay such salaries, and remitted by him to the *Secretary of the Retirement Association* with a statement showing the amount of each of such deductions and the names of the employes on whose account the same have been made. All such salary deductions shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from such fund. *Under the direction of the Retirement Board the head of each department shall furnish such information and shall keep such records as the Board may require for the discharge of its duties.*

2. *In computing the length of service of members for retirement purposes, who were required to pay a membership fee as provided by section 2 of this act, full credit shall be given for prior service, and in computing the length of service of those entering the state service after July 1, 1929, who have had service prior to July 1, 1929, full credit shall be given for prior service, but no credit for service rendered prior to the date of becoming a member by reason of being a "new state employe" shall be given to any person who was a state employe on July 1, 1929, and did not exercise his option to become a member.*

3. *In case an employe is laid off, or on leave of absence, without pay for a longer period than one month he shall be entitled to credit for service provided he pays into the retirement fund a sum equal to the deductions that would be made from his salary if he were receiving it, such payment to be made within 90 days from the time such member returns to state service.*

4. *In case of lay-off or leave of absence of more than one month the head of the department shall, at the beginning of such leave or lay-off, certify to the Secretary of the Retirement Board on forms provided by the Retirement Board that such employe is on leave of absence or lay-off, giving the exact date the leave or lay-off begins and the date it will end, and in the absence of such certification the employe will be deemed*

to be out of the state service. *Provided that no such employe shall be deprived of any rights under this act by reason of the failure or omission of any other person to make such certification.*

5. *No credit for service shall be allowed any member for periods such member may have been a state employe after June 30, 1929, unless deductions shall have been made from the salary of such member or he has made payment in lieu thereof.*

6. *No member shall be entitled to credit for former service upon entering the employ of the state after having received a refund from the retirement fund of accumulated deductions from his salary made pursuant to the provisions of this act, unless he shall restore the amount thereof to said fund as provided by section 10 of this act.*

7. *The final power to determine the status of any individual in the employ of the state for the purpose of this act is hereby vested in the retirement board.*

Section 6. Investment board to invest funds.—The retirement board shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized legal investments for savings banks and trust companies, and shall sell any such securities upon request of the retirement board.

Section 9. Amount paid to be refunded in certain cases.—Whenever any member of said association shall cease to be a state employe for any reason other than death or retirement for superannuation, he or she shall be paid, upon making application therefor on blanks furnished by the Retirement Board, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been in the service of the state for not less than five years may, in lieu thereof, upon application in writing to the retirement board within 60 days from the termination of his or her employment, be permitted to retain membership in the retirement association and to enjoy all the rights and privileges thereof *provided he pays into the retirement fund in lieu of salary deductions such amount as is provided in section 4, subdivision 1 of this act, such payment to be based upon his or her average salary during the entire time he or she has paid into the retirement fund prior to such termination of state service.* Any member of the retirement

association who has maintained his or her membership after leaving the employment of the state by the payment of such assessments may terminate such membership by notice in writing to the retirement board, whereupon he or she shall be paid, *upon making application therefor*, the full amount of the accumulated deductions standing to the credit of his or her individual account.

Section 10. Members may be reinstated.—Whenever a state employe, who has so withdrawn his accumulated deductions shall re-enter the employment of the state within five years and shall restore to the retirement fund his or her accumulated deductions that were withdrawn the annuity rights forfeited at that time shall be restored. *If the amount so withdrawn is not restored within 90 days from the date of returning to the state service, the employe becomes a member but not entitled to credit for former service. And in the case of a member returning to the service of the state without restoring a refund and again leaving and having a refund and later returning, such member can only restore the last refund and will not be entitled to credit for service prior to that covered by the last refund.*

Section 11. Retirement—Annuity.—Whenever any member of the retirement association has been an employe of the state for a period of twenty (20) years and has attained the age of sixty-five (65) years or when any such employe has been in the service of the state for a period of thirty-five years, he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory, provided that in computing such term of service the time during which any member of the association shall have maintained his membership by the payment of assessments after leaving the service of the state, in lieu of deductions, shall be included. Such retirement may be made upon application of the member, or of some one acting in his or her behalf, or in case of an employe in active service upon the application of the head of the department in which such member is employed. Upon retirement such member shall receive an annuity for the remainder of his or her life equal to fifty (50) per centum of his or her average salary during the *entire time he or she has paid into the retirement fund* provided that no such retirement annuity shall exceed the sum of One Hundred Fifty (\$150.00) Dollars per month. If the total of annuities and *refundments* shall during any *month* become greater in amount than the *monthly deductions from salaries*, the Board shall proportionally reduce the amount of annuities.

Section 13. Annuities to be paid in monthly installments.—All annuities granted under the provisions of this act shall be paid in equal monthly instalments, and shall not be increased, decreased, or revoked except as provided in this act.

Section 14. Date of retirement.—No retirement on account of superannuation shall be granted until July 1, 1931, nor shall any member of the retirement association be entitled to receive an annuity for superannuation until he shall have paid into the retirement fund, either by deductions from salary or otherwise, before such retirement, an amount equal to five years' accumulated deductions from his or her average salary during the last five years of state service, and such additional amount as may be provided by law prior to July 1, 1931, and provided that until July 1, 1931, nothing done hereunder shall create or give any contract rights to any one, except the right to receive back upon withdrawing from the association, any salary deductions made or assessments paid hereunder.

Section 15. Funds not subject to process.—None of the moneys, annuities or other benefits mentioned in this act shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment or other legal process nor shall they be subject to any state income tax.

Sec. 2. Law repealed.—Laws 1929, Chapter 191, Section 12, as amended by Laws 1931, Chapter 351, Section 12; Laws 1929, Chapter 191, Section 13, and Laws 1933, Chapter 326, are hereby repealed.

Sec. 3. Laws amended.—Laws 1929, Chapter 191, Sections 5, 14, 18, 19, 20, 21 and 22, are amended and re-numbered so as to read as follows:

“Section 5. State Treasurer to be treasurer of association.
—The state treasurer shall be ex-officio treasurer of the retirement funds of said association, and his general bond to the state shall cover all liability for his acts as treasurer of said funds. All monies of said association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall *deliver* to the secretary of the retirement board *each month copies of all payrolls of the state together with the state auditor's warrants covering the deductions made on said payrolls for the retirement fund, whereupon the secretary shall cause to be made in triplicate a list of the auditor's warrants and said warrants shall then be deposited with the state treasurer to be credited to the retirement fund.* He shall pay out said fund only on warrants issued by the state auditor, upon vouchers signed by the secre-

tary of the retirement board, provided that vouchers for investments may be signed by the secretary of the state board of investment."

Section 12. Total disability—Annuity.—Whenever a member of said association shall die without having received an annuity, or without having received in annuities an amount equal to the total amount of the accumulated deductions from his or her salary, the full amount of said accumulated deductions, less such annuity payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the surviving spouse, or, if none, to the legal representatives of such member, upon the establishment of a valid claim therefor. *Any annuity payment to which a member is entitled at the time of his death shall be paid in the same manner.*

Section 16. Insurance laws not to apply.—None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds.

Section 17. May receive gifts and bequests.—The retirement board is hereby authorized and empowered to credit to the fund any moneys received in the form of donations, gifts, appropriations, bequests or otherwise, or derived therefrom, and every member of said retirement association who shall fail to make application for the amount of his accumulated deductions within five years after his separation from the service of the state shall be deemed to have donated the same to the fund, unless he shall have retained his membership in the retirement association as herein provided.

Section 18. Provisions severable.—If any provision of this act shall be held to be unconstitutional such unconstitutionality thereof shall not affect the validity of the remaining parts of this act.

Section 19. Date effective.—This act shall take effect upon its passage and approval but no deductions from salary for the retirement fund shall be made from any salary earned prior to July 1, 1929.

Section 20. Board of Directors may make rules and regulations.—Any changes or additions which may be found necessary or advisable for the management of this fund, may be made by a majority vote of the Board of Directors, provided no increase is made in the amount of deductions from salaries, or decrease in the amount of benefits paid.

Sec. 4. Law amended.—Laws 1929, Chapter 191, is amended by adding thereto a new section as follows:

Section 21. **Not to affect pending claims.**—The rights of any member who has prior to the passage of this act filed proof of disability with the retirement board shall not be affected hereby.

Approved April 22, 1935.

CHAPTER 239—H. F. No. 1506

An act to amend Section 86, Revised Statutes of Minnesota for 1913, as amended by Chapter 52, General Laws of 1921, authorizing the State Treasurer to temporarily borrow from other public funds to supply deficiencies in the revenue fund.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **State Treasurer may borrow from other funds to make up deficiency in revenue funds.**—That Section 86, Revised Statutes of Minnesota for 1913, as amended by Chapter 52, General Laws of 1921, be and the same is hereby amended so as to read as follows:

“Section 86. For the purpose of supplying deficiencies in the revenue fund, the treasurer may temporarily borrow from other public funds sums not exceeding in the aggregate six million dollars in any year; provided that no fund shall be so impaired thereby that all proper demands thereon cannot be met.”

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 23, 1935.

CHAPTER 240—S. F. No. 1556

An act to amend Laws 1935, Chapter 68, Sections 2 and 4, relating to the suspension and cancellation of real estate contracts, and relating to the jurisdiction of district courts in connection therewith.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Law amended.**—Laws 1935, Chapter 68, Section 2, is hereby amended so as to read as follows:

“Section 2. **Notice to terminate real estate contract.**—No notice to terminate any contract for the conveyance of real estate or any interest therein for a breach of condition con-