

## CHAPTER 160 — H.F.No. 996

*An act relating to retirement; making various administrative changes in the teachers retirement law; authorizing a medical advisor; payment of shortages in member deductions; amending Minnesota Statutes 1980, Sections 354.06, Subdivisions 2 and 2a; 354.091; 354.092; 354.41, by adding a subdivision; 354.44, Subdivisions 4 and 8; 354.48, Subdivisions 2, 4, and by adding a subdivision; 354.51, Subdivision 5; 354.52, Subdivision 4; and 354.62, Subdivisions 4 and 5.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 354.06, Subdivision 2, is amended to read:

Subd. 2. The board shall annually elect one of its members as president. It shall elect an executive director, and fix his salary and the salary of the assistant executive director in the unclassified service. The executive director shall serve during the pleasure of the board and be the executive officer of the board, with such duties as the board shall prescribe. The board shall employ all other clerks and employees necessary to properly administer the fund. The cost and expense of administering the provisions of this chapter shall be paid by the fund. The executive director shall be appointed by the board on the basis of fitness, experience in the retirement field and leadership ability. The executive director shall have had at least five years of experience on the administrative staff of a major retirement system.

Sec. 2. Minnesota Statutes 1980, Section 354.06, Subdivision 2a, is amended to read:

Subd. 2a. The management of the association is vested in the executive director who shall be the executive and administrative head of the association. He shall act as advisor to the board on all matters pertaining to the association. He shall also act as the secretary of the board. It is the duty of the executive director and he has the power to:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules for the purpose of carrying out the provisions of this chapter;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) Designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter;
- (5) Organize the work of the association as he deems necessary to fulfill the functions of the association, and define the duties of its employees and

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delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe;

(6) With the approval of the board, contract for actuarial services, professional management services, and consulting services as may be necessary and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. Professional management services may not be contracted for more often than once in every six years. Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

(7) With the approval of the board provide inservice training for all employees of the association;

(8) Make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in this chapter;

(9) Determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;

(10) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the association;

(11) Prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by chapter 356;

(12) Certify funds available for investment to the state board of investment;

(13) With the advice and approval of the board request the state board of investment to sell securities when he determines that funds are needed for the purposes of the association;

(14) Prepare and submit biennial and annual budgets to the board and with the approval of the board submit such budgets to the department of administration; and

(15) With the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 3. Minnesota Statutes 1980, Section 354.091, is amended to read:  
354.091 **SERVICE CREDIT.**

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall

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constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1969 (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, 1969 shall be computed pursuant to the law in effect at the time it was rendered.

Sec. 4. Minnesota Statutes 1980, Section 354.092, is amended to read:  
**354.092 SABBATICAL LEAVE.**

If a member is granted a sabbatical leave, he may receive allowable service credit not exceeding three years in any ten consecutive years toward a retirement annuity by paying into the fund employee contributions during the period of leave. The employee contribution shall be based upon the appropriate rate of contributions and the salary received during the year immediately preceding the leave. This payment ~~must~~ shall be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated, and shall be without interest. A member shall not accrue more than three years allowable service by reason of this section unless the allowable service credit was paid for by the member prior to July 1, 1962. A sabbatical leave for the purpose of this section ~~must~~ shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. If the employee contributions during the period of the leave are less than the contributions based on the salary received during the year immediately preceding the leave, ~~his~~ the formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (4) (3), except that if the member is paid full salary for any sabbatical leave of absence, either past or prospective, the formula service credit shall not be prorated.

Sec. 5. Minnesota Statutes 1980, Section 354.41, is amended by adding a subdivision to read:

Subd. 9. Any member who has been granted a leave of absence to serve as an elected officer of a professional teachers organization shall be entitled to acquire allowable service credit for the period of leave. To acquire the allowable service credit, the member shall make any required employee contributions currently during the period of the leave, which shall be based upon the contract salary for which the member would have been eligible if the member had not been granted the leave of absence and shall be consistent with the contract in force for the year occurring immediately prior to the commencement of the leave of absence. Any shortage which occurs in the amount of

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required employee contributions for any year may be paid directly to the fund with interest at the rate of six percent per annum compounded annually on or prior to the last day of the fiscal year next following the occurrence of the shortage.

Sec. 6. Minnesota Statutes 1980, Section 354.44, Subdivision 4, is amended to read:

Subd. 4. **TIME AND MANNER OF PAYMENTS.** After January 1, 1974, a member may make application to the board for a retirement annuity any time after ~~he~~ the member has satisfied the age and service requirements of this chapter for retirement except that no application for retirement may be made more than 60 days before termination of teaching service. The annuity payment shall begin to accrue after the termination of teaching service, or after the application for retirement has been filed with the board, ~~or after the member receives his final salary payment,~~ whichever is later, as follows:

(a) on the sixteenth day of the month of termination, or filing ~~or final salary receipt~~ if such termination, or filing ~~or final salary receipt~~ occurs on or before the fifteenth day of such month or

(b) on the first day of the month following the month of termination, or filing ~~or final salary receipt~~ if such termination, or filing ~~or final salary receipt~~ occurs on or after the sixteenth day of the month but in no event shall an annuity begin to accrue more than one month prior to the date of final salary receipt.

This subdivision is effective January 1, 1976.

Sec. 7. Minnesota Statutes 1980, Section 354.44, Subdivision 8, is amended to read:

Subd. 8. **PAYMENT OF ANNUITY OR BENEFIT, EVIDENCE OF RECEIPT.** Payment of an annuity or benefit for a given month shall be ~~mailed paid~~ during the first week of that month. Evidence of receipt of the check issued in payment of an annuity or benefit shall be submitted quarterly by the payee or a banking institution on a form prescribed by the executive director. The evidence of receipt form shall be submitted periodically at times specified by the board. In the event the required evidence of receipt form is not submitted, future annuities or benefits will be withheld until the form is submitted.

Sec. 8. Minnesota Statutes 1980, Section 354.48, Subdivision 2, is amended to read:

Subd. 2. **APPLICATIONS.** Any person described in subdivision 1 may make application for a total and permanent disability benefit within 18 months following termination of teaching service but not thereafter. This benefit shall begin to accrue 90 days following the commencement of disability

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or ~~from the first day of the month~~ following the date on which salary ceases, whichever is later, but shall not begin to accrue more than 90 days prior to the date the written application for disability benefit has been is filed with the board whichever is later. If salary is being received for either annual or sick leave during said the period, payments shall accrue from the date salary ceases.

Sec. 9. Minnesota Statutes 1980, Section 354.48, Subdivision 4, is amended to read:

Subd. 4. **DETERMINATION BY THE BOARD.** The board shall have the member examined by at least two licensed physicians selected by the ~~board~~ medical advisor. These physicians shall make written reports to the board concerning the member's disability including medical opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14. The board shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and ~~such any~~ other evidence presented by the member or others interested therein, the board finds the member totally and permanently disabled, it shall grant ~~him~~ the member a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar ~~him~~ the member from receiving a disability benefit.

Sec. 10. Minnesota Statutes 1980, Section 354.48, is amended by adding a subdivision to read:

Subd. 4a. **MEDICAL ADVISOR; DUTIES.** The commissioner of health or such other licensed physician on the staff of the commissioner of health as the commissioner may designate shall be the medical advisor of the board. The medical advisor shall designate licensed physicians to examine applicants for disability benefits. The medical advisor shall pass upon all medical reports based upon those examinations required to determine whether applicants are totally and permanently disabled as defined in section 354.05, subdivision 14, and shall investigate all health and medical statements and certificates by or on behalf of applicants in connection with disability benefits, and shall report in writing to the board conclusions and recommendations on all matters referred.

Sec. 11. Minnesota Statutes 1980, Section 354.51, Subdivision 5, is amended to read:

Subd. 5. **SHORTAGES IN MEMBER DEDUCTIONS.** After July 1, 1971, In the event that full required member contributions are not deducted from the salary of a teacher, payment shall be made as follows:

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(a) Payment of shortages in member deductions on salary earned after July 1, 1961; must and prior to July 1, 1981 shall be made prior to July 1, 1973 or within one year from the end of the fiscal year in which such the shortage in deductions were made, whichever is later occurred in order to be accepted without an interest charge. If payment is not made within this period of time, it may be paid by the member any time prior to retirement provided that the payment shall include six percent interest compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall be prorated pursuant to section 354.05, subdivision 25, clause (3).

(b) Payment of shortages in member deductions on salary earned after June 30, 1981 shall be the sole obligation of the employing unit and shall be payable by the employing unit upon notification by the executive director of the shortage with interest at the rate of six percent per annum, compounded annually, from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

Sec. 12. Minnesota Statutes 1980, Section 354.52, Subdivision 4, is amended to read:

Subd. 4. At least once a month, the ~~treasurer~~ chief administrative officer of each employing school district and other managing bodies of schools and institutions to which the provisions of this chapter apply shall transmit all amounts due and furnish a signed statement indicating the amount due and transmitted, which signing of ~~such~~ the statement shall have the force and effect of an oath as to the correctness of the amount due and transmitted, and shall transmit a statement of such other information as the board shall require. Any amount thus due and not transmitted, shall accrue interest at the rate of six percent compounded annually commencing 30 days after the date first due until transmitted and shall be paid by the employing school district or other managing institution. The state treasurer shall credit all money received or withheld pursuant to the provisions of this chapter to the fund and the reports and date received by ~~him~~ the state treasurer from each reporting agency shall be available for the board. Any person willfully failing to perform any of the duties imposed ~~upon him~~ by this section shall be guilty of a misdemeanor.

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Sec. 13. Minnesota Statutes 1980, Section 354.62, Subdivision 4, is amended to read:

Subd. 4. **GAINS, LOSSES AND EARNINGS.** (1) Turnover gains shall consist of those amounts transferred in accordance with subdivision 5, clauses (3) and (4).

(2) As of June 30 of each fiscal year, the board of trustees shall determine the amount of earnings, realized gains, and appreciation or losses to be distributed to the accounts provided in subdivision 3. The amount of these distributions shall be in the proportion of the average month-end balance of each account to the total value of all the accounts provided in subdivision 3.

(3) Earnings and realized and unrealized gains or losses shall be credited to the individual member accounts annually but only on amounts that have been on deposit for the full year based on a rate of return as defined in section 11A.19, subdivision 8.

(4) Annually on ~~July 1~~ June 30 of each fiscal year a portion of the amount in the variable annuity turnover account shall be distributed to the variable annuity reserve account. The amount of this distribution shall be in the proportion of the value of the variable annuity reserve account to the total value of all the accounts provided in subdivision 3.

Sec. 14. Minnesota Statutes 1980, Section 354.62, Subdivision 5, is amended to read:

Subd. 5. **VARIABLE RETIREMENT ANNUITY.** (1) At retirement the amount of the member's variable account accumulation in the employee variable annuity contribution account, based on the valuation at the previous fiscal year end plus any contributions made by ~~such~~ the person since ~~such date~~ the end of the previous fiscal year, and an equal amount from the employer variable annuity contribution account shall be transferred to the variable annuity reserve account, and the variable retirement annuity for the member shall be determined by the member's age, and sex, and the amount transferred for the member to the variable annuity reserve account at the date of retirement. The amount of the annuity shall be calculated on the basis of an appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1.

(2) Whenever the admitted value of the annuity reserve account of the variable annuity division, as of June 30 of any year, exceeds or is less than the then present value of all variable annuities in force, determined in accordance with the rate of interest and approved actuarial tables then in effect, by at least two percent of ~~said~~ the present value, the amount of each variable annuity payment shall be proportionately increased or decreased for the following year.

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(3) The death benefit payable in the event of a member's death prior to retirement ~~will~~ shall be the lump sum refund of a member's variable account accumulation, based on the valuation at the previous fiscal year end plus any contributions made by ~~such~~ the person since ~~such date~~ the end of the previous fiscal year, to the surviving ~~dependent~~ spouse, or if there is no surviving ~~dependent~~ spouse to his the designated beneficiary. Except that if a member has made an election in accordance with section 354.46, then his surviving spouse will receive a joint and survivor annuity as described in section 354.44 and computed as provided in clause (1). An amount equal to the lump sum refund made in this clause shall be transferred from the employer contribution account to the variable annuity turnover account.

(4) Except as provided in section 354.44, subdivision 7, any person who ceases to be a member by reason of termination of teaching service, shall be entitled to a lump sum refundment of his variable account accumulations, based on the valuation at the previous fiscal year end plus any contributions made by ~~such~~ the person since ~~such date~~ the end of the previous fiscal year. Application for a refundment may be made no sooner than 30 days after termination of teaching service if the applicant has not again become a teacher. Repayment of a refundment upon resumption of teaching is not permitted under this section. An amount equal to the refundment to the member shall be transferred from the employer contribution account to the variable annuity turnover account.

(5) If a member is determined to be totally and permanently disabled as provided in sections 354.05, subdivision 14; and 354.48, ~~he~~ the member shall be entitled to the annuity provided in this subdivision.

(6) Those members eligible for retirement as provided in section 354.44, subdivision 1 ~~will~~ shall upon application for the annuity provided therein be entitled to the annuity provided in this subdivision. The annuity elected in accordance with sections 354.44, and 354.45 shall be the annuity applicable to this subdivision.

(7) Notwithstanding section 356.18, increases in annuity payments pursuant to this section ~~will~~ shall be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase ~~shall~~ not be made.

(8) At retirement, a member may elect to have the amount of ~~his~~ the variable annuity accumulation of the member in the employee variable annuity contribution account and an equal amount from the employer variable annuity contribution account transferred to the Minnesota post-retirement investment fund as provided in section 354.63, subdivision 2, clause (2). This election may also be made by a surviving ~~dependent~~ spouse who receives an annuity under

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clause (3) of this subdivision. ~~Such~~ The election shall be made on a form provided by the ~~board of trustees~~ executive secretary.

Sec. 15. **EFFECTIVE DATE.**

This act is effective on the day following final enactment.

Approved May 8, 1981

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**CHAPTER 161 — S.F.No. 18**

*An act relating to probate; eliminating requirement of notice to representatives of foreign countries in certain formal testacy proceedings; amending Minnesota Statutes 1980, Section 524.3-403.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 524.3-403, is amended to read:

**524.3-403 FORMAL TESTACY PROCEEDING; NOTICE OF HEARING ON PETITION.**

(a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice, in the form prescribed by court rule, shall be given in the manner prescribed by section 524.1-401 by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 524.3-204 of this chapter. If the petitioner has reason to believe that the will has been lost or destroyed, he shall include a statement to that effect in the notice.

Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice of the hearing, in the form prescribed by court rule, shall also be given under the direction of the clerk of court by publication once a week for two consecutive weeks in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least ten days before the time set for hearing.

If the decedent was born in a foreign country or left heirs or devisees in any foreign country, notice of a formal testacy proceeding shall be given to the consul ~~or other representative~~ of such that country, if he resides in this state

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