

transfer prospectively and have future service credited by the teachers retirement association. A revocation must be made in a manner prescribed by the executive director of the teachers retirement association and must be made within 60 days of the effective date of this section. The election is effective only for future service and does not permit transfer to the teachers retirement association of any contributions made to the individual retirement account plan.

Sec. 34. **REPEALER.**

Minnesota Statutes 1990, sections 354.094, subdivisions 1a and 1b; and 354.48, subdivision 5, are repealed.

Sec. 35. **EFFECTIVE DATES.**

Section 3 is effective July 1, 1991. Section 30 is effective for the first payroll period beginning after July 1, 1991. Section 33 is effective the day following final enactment. All other sections are effective the day following final enactment.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:59 p.m.

CHAPTER 341—H.F.No. 1584

An act relating to retirement; the public employees retirement association; making various changes reflecting benefits, administration, and investment practices; amending Minnesota Statutes 1990, sections 353.01, subdivisions 2b, 6, 10, 15, 16, and 20; 353.03, subdivision 1; 353.27, subdivisions 4, 7, 12, 12a, and by adding subdivisions; 353.28, subdivision 6; 353.29, subdivision 4; 353.31, subdivision 1; 353.32, subdivision 1a; 353.33, subdivision 3a; 353.34, subdivision 1; 353.64, by adding a subdivision; 353.656, subdivision 1a; 353.657; 353A.01, subdivision 1; 353A.02, subdivision 16, and by adding a subdivision; 353A.03; 353A.06; 353A.08, subdivision 1; 353C.06, subdivision 3; 353C.07, subdivision 1; 353C.08, subdivision 2; 353C.09; 353D.01, subdivision 2; 353D.02; 353D.04; 353D.05, subdivision 2; 353D.07, subdivisions 2 and 3; 353D.12, subdivision 1; 354B.04, subdivision 2; 356.371, subdivision 3; 356.86, subdivisions 2 and 4; 356.87; Laws 1990, chapter 570, article 8, section 14, subdivision 1; and repealing Minnesota Statutes 1990, sections 353.33, subdivision 5a; and 353C.07, subdivision 2.

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

Section 1. Minnesota Statutes 1990, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of "public employee":

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(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

(5) members of boards and commissions who serve a governmental subdivision intermittently unless their position on the board or commission is the result of public employment within the same governmental unit;

(6) employees who are hired for a period of less than six consecutive months but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment is extended beyond the six-month period and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee ~~in accordance with~~ under section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and nontemporary positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) appointed and elected employees whose actual compensation from one governmental subdivision does not exceed \$425 per month, or whose annual compensation from one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service as defined in subdivision 11a. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

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(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers who are paid entirely on a fee basis and who were not members on June 30, 1971;

(16) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

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(17) persons exempt from licensure under section 125.031;

(18) persons employed by the Minneapolis community development agency;

(19) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(20) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Sec. 2. Minnesota Statutes 1990, section 353.01, subdivision 6, is amended to read:

Subd. 6. **GOVERNMENTAL SUBDIVISION.** "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized pursuant to under sections 469.048 to 469.068; or any hospital district organized or reorganized prior to July 1, 1975, ~~pursuant to under~~ sections 447.31 to 447.37 or the successor of the district. ~~A hospital district organized or reorganized on or after July 1, 1975, whose employees are not enrolled and participating in the association, may elect to be excluded from the definition of governmental subdivision for purposes of this chapter. To be excluded, the hospital district must notify the association in writing of its intent to be excluded.~~

Sec. 3. Minnesota Statutes 1990, section 353.01, subdivision 10, is amended to read:

Subd. 10. **SALARY.** (a) "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. ~~Lump sum Unused annual or lump sum sick leave payments, in lump-sum or periodic payments, are not salary.~~ Severance payments, workers' compensation payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single

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and family rates that may be paid to a member with single coverage, are not ~~deemed to be salary~~. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are ~~considered salary~~, and, after all sick leave has been used, the payment is not ~~considered salary~~. ~~Workers' compensation payments are not considered salary.~~

(b) Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not ~~considered salary~~.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees ~~police and fire fund~~ retirement association and who has elected coverage by under the public employees police and fire fund benefit plan as ~~provided in~~ under section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1990, section 353.01, subdivision 15, is amended to read:

Subd. 15. **DEPENDENT CHILD.** "Dependent child" means a natural or adopted child of a deceased member; ~~provided such child who is unmarried, and~~ provided such child who is unmarried, and under the age of 18, or age 18 to 21 ~~and a full-time student in an accredited school, university, or college, and in either case unmarried and dependent for more than one-half of support upon the member at the time of death and for not less than 90 days before the time of death; provided, that the child of a deceased member who at the time of death was receiving total and permanent disability benefits under section 353.33, is deemed dependent if dependent upon the decedent for more than one-half of support during the 90 days before the decedent's becoming totally and permanently disabled 23, so long as the child submits evidence of full-time enrollment in an accredited educational institution.~~ and a full-time student in an accredited school, university, or college, and in either case unmarried and dependent for more than one-half of support upon the member at the time of death and for not less than 90 days before the time of death; provided, that the child of a deceased member who at the time of death was receiving total and permanent disability benefits under section 353.33, is deemed dependent if dependent upon the decedent for more than one-half of support during the 90 days before the decedent's becoming totally and permanently disabled 23, so long as the child submits evidence of full-time enrollment in an accredited educational institution. "Dependent child" also includes a child of the member conceived during the member's lifetime and born after the member's death. It also means a dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency ~~in~~ under this subdivision. The dependency of the child dates from the decree of adoption. "Dependent child" also includes a child age 18 to ~~21~~ 23 who was ~~attending an accredited school, university, or college full time, had submitted evidence of full-time enrollment in an accredited educational institution~~ attending an accredited school, university, or college full time, had submitted evidence of full-time enrollment in an accredited educational institution but was determined to be medically unable to continue school on a full-time basis. The board of trustees shall adopt written procedures to make determinations regarding eligibility based on a stu-

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dent being medically unable to continue school, and may not continue a benefit for medical reasons for a period greater than one year.

Sec. 5. Minnesota Statutes 1990, section 353.01, subdivision 16, is amended to read:

Subd. 16. **ALLOWABLE SERVICE.** (a) "Allowable service" means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions ~~made as provided in~~ under section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence; ~~provided, however, that~~. If the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date the leave of absence terminates. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing that it will cause to be paid the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at the rate of six percent a year from the date of the termination of the leave of absence to the date payment is made.

(d) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay limited to one year, an authorized temporary layoff, or a maternity, paternity, or adoption leave. The association will grant a maximum of two months service credit for a maternity, paternity, or adoption leave upon documentation from the member's governmental subdivision. A member on personal leave of absence who provides the association with a birth certificate or other evidence of birth or adoption during the personal leave time period will be granted up to two months of service credit.

(e) "Allowable service" also means a period during which a member is on an

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authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at six percent a year compounded annually from the date of return to public service to the date payment is made. ~~In such cases~~ The matching employer contribution and additional employer contribution ~~provided in~~ under section 353.27, subdivisions 3 and 3a, must be paid by the department employing the member upon return to public service, ~~and if the member makes the employee contributions.~~ The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

(f) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, chapter 401, and transferred into county service under section 401.04, "allowable service" means combined years of allowable service as defined in paragraphs (a) to (e) and section 352.01, subdivision 11.

(g) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund, and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 6. Minnesota Statutes 1990, section 353.01, subdivision 20, is amended to read:

Subd. 20. **SURVIVING SPOUSE.** "Surviving spouse" means the ~~unremarried~~ spouse of a deceased member who was legally married to the member at the time of death, or at the time the member became totally and permanently disabled.

Sec. 7. Minnesota Statutes 1990, section 353.03, subdivision 1, is amended to read:

Subdivision 1. **MANAGEMENT; COMPOSITION; ELECTION.** The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and ~~eight~~ nine members. The governor shall appoint ~~five~~ six trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a member of the police and fire fund, one who is a retired annui-

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tant, and one who is a public member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of \$100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, shall file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

Sec. 8. Minnesota Statutes 1990, section 353.27, subdivision 4, is amended to read:

Subd. 4. **EMPLOYERS REPORTING REQUIREMENTS; CONTRIBUTIONS; MEMBER STATUS.** (a) The head of each department is hereby

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~~directed to cause employee contributions to be deducted shall deduct employee contributions~~ from the salary of each member and ~~to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries; and at the same time to issue or approve one voucher warrant~~ for the aggregate amount of the employee contributions, the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions; and to cause the same to be received not later than within 20 calendar days thereafter in the office of the association. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the executive director, showing (a) the legal names and the association membership numbers, listed in alphabetical order, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of ~~all member terminations of public service on account of members and if such terminations were caused by death or retirement; there shall be inserted after such date accompanied by the applicable status code as set by the association for those terminations caused by death or retirement;~~ (f) effective dates of all temporary layoffs and leaves of absence ~~and if such leaves are sick leaves; there shall be inserted after such date accompanied by the applicable status code as set by the association;~~ and (g) the beginning and ending dates of the payroll period covered and the date of actual payment. ~~Additionally, Reports of contributions shall~~ must be accompanied by a membership enrollment form for each new employee in the form prescribed by the executive director; and it shall be the responsibility of department heads to obtain such. The enrollment forms from new employees to must be collected by the employer and submitted to the association within 30 days following the date of employment. The employers employer shall furnish such additional reports on magnetic media or on other form of report forms as may be requested by the association executive director.

(b) Notwithstanding paragraph (a), the association may provide for less frequent reporting and payments for small employers.

Sec. 9. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 5a. WRONGFUL DISCHARGE SETTLEMENT PAYMENTS. Notwithstanding section 353.01, subdivision 10, employee deductions and employer contributions and additional employer contributions must be made on the gross salary of wrongful discharge settlement payments before subtracting unemployment compensation, workers' compensation, or wages from other sources.

Sec. 10. Minnesota Statutes 1990, section 353.27, subdivision 7, is amended to read:

Subd. 7. ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS. (a) ERRONEOUS DEDUCTIONS TAKEN IN ERROR.

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Deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association must be refunded to the employee ~~calculated in accordance with~~ under section 353.34, subdivision 2; ~~and~~. The employer contribution and the additional employer contribution, if any, for the erroneous employee contribution must be refunded to the employer, provided; ~~however, that the association and the state social security agency may make proper adjustments of money taken as employee and employer deductions, and provided further that the refund of deductions taken in error has been made within three calendar years of the calendar year in which the initial erroneous deduction taken in error was received by the association, except for erroneous deductions of~~. A refund of deductions taken in error from sick leave, vacation pay, workers' compensation, and severance pay, which may be made at any time. If the refund of deductions taken in error has not been made within three calendar years of the calendar year in which the initial erroneous deduction taken in error was received by the association, the erroneous contributions are considered valid, and the years of allowable service attributable to the erroneous deductions taken in error must be credited to the member ~~in accordance with~~ under section 353.01, subdivision 16; ~~and~~. Notwithstanding a law to the contrary, the employee may continue to be a member until termination of public service.

(b) **ERRONEOUS DISBURSEMENT.** In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or a portion of it that is required to adjust the deductions, must be made to the department or institution.

Sec. 11. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 7b. OVERPAYMENTS TO MEMBERS. In the event of an overpayment to a member, the executive director shall recover the overpayment by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until all outstanding money has been recovered.

Sec. 12. Minnesota Statutes 1990, section 353.27, subdivision 12, is amended to read:

Subd. 12. OMITTED SALARY DEDUCTIONS; OBLIGATIONS. (a) In the case of omission of required deductions from salary of an employee, the department head shall immediately, upon discovery, report the employee for membership and require employee deductions ~~be made in accordance with~~ under subdivision 4. Omitted employee deductions due for the 60-day period preceding ~~enrollment~~ membership must be deducted upon receipt of billing from the association from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deduc-

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tions ~~past due~~ and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each omitted employee contribution was first payable. ~~Any amount due from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer.~~

(b) An employer shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment beyond the pay period that covers the 60th day preceding membership nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay Omitted deductions not paid by the employee constitute a liability of the employer that failed to deduct the omitted deductions from the employee's salary. The employer shall make payment with interest at the rate of six percent compounded annually. Omitted employee deductions when are no longer due if an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it.

(c) The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

Sec. 13, Minnesota Statutes 1990, section 353.27, subdivision 12a, is amended to read:

Subd. 12a. A member who was employed and met the eligibility requirements for participation in the association before July 1, 1973, terminated employee who has a period of employment in which previously omitted employer contributions were made under subdivision 12 but for whom no, or only partial, omitted employee contributions have been made, or a member who had prior coverage in the association for which previously omitted employer contributions were made under subdivision 12 but who terminated service before required omitted employee contributions deductions could be withheld from salary, may pay the omitted employee contributions deductions for the period on which omitted employer contributions were previously paid plus interest at the rate of six percent compounded annually. The statute of limitations for payment of omitted deductions in subdivision 12 applies. A terminated employee may pay the omitted employee deductions plus interest within six months of an initial notification from the association of eligibility to pay those

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omitted deductions. If a terminated employee is reemployed in a position covered under a public pension fund under section 356.30, subdivision 3, and elects to pay omitted employee deductions, payment must be made no later than six months after a subsequent termination of public service.

Sec. 14. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 12b. If deductions were omitted from salary adjustments or final salary of a terminated employee, the employer shall pay the employer and employer additional contributions plus interest on both and the employee shall pay the employee deductions.

Sec. 15. Minnesota Statutes 1990, section 353.28, subdivision 6, is amended to read:

Subd. 6. If the governmental subdivision fails to pay amounts due under ~~this chapter~~ chapters 353, 353A, 353B, 353C, and 353D or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected, and apportioned in the manner other taxes are levied, collected, and apportioned.

Sec. 16. Minnesota Statutes 1990, section 353.29, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FOR ANNUITY.** Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement ~~shall~~ must be made in writing on a form prescribed by the executive director and ~~shall~~ must be substantiated by written proof of the member's age and identity. ~~No~~ The notarized signature of a member's spouse on a retirement annuity application acknowledging the member's annuity selection meets the notice requirement to the spouse under section 356.371, subdivision 3. An application for a retirement annuity ~~may be considered is not~~ complete until all necessary supporting documents are received by the executive director.

Sec. 17. Minnesota Statutes 1990, section 353.31, subdivision 1, is amended to read:

Subdivision 1. **BENEFITS FOR SURVIVING SPOUSE AND DEPENDENT CHILDREN; BEFORE RETIREMENT.** Upon the death of a basic member before retirement or upon the death of a basic member who was disabled and receiving disability benefits ~~pursuant to~~ under section 353.33 at the

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time of death who has had at least 18 months of credited allowable service, the surviving spouse and dependent child or children of the member, as defined in section 353.01, subdivisions 15 and 20, ~~shall be~~ are entitled to receive the monthly benefit provided below:

- (a) Surviving spouse 50 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred
- (b) Each dependent child 10 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred

Subd. 1a. MAXIMUM FAMILY BENEFIT. Payments for the benefit of any a dependent child or children, as defined in section 353.01, subdivision 15, ~~shall must~~ be made to the surviving parent, or if ~~there be none~~, to the legal guardian of the child. The maximum monthly benefit for a family ~~shall must~~ not exceed \$1,000 an amount equal to 70 percent of the member's specified average monthly salary, and the minimum benefit ~~per for~~ a family ~~shall including~~ a 100 percent joint and survivor annuity under subdivision 1b, must not be less than 50 percent of the basic member's specified average monthly salary; ~~subject to the aforementioned maximum. The surviving spouse benefit shall terminate upon the remarriage of the spouse, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.~~

~~Any survivor of a basic member whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision.~~

Subd. 1b. JOINT AND SURVIVOR OPTION. (a) Prior to payment of any survivor a surviving spouse benefit pursuant to this under subdivision 1, ~~in lieu of that benefit~~, the surviving dependent spouse may elect to receive the 100 percent joint and survivor optional annuity provided pursuant to under section 353.32, subdivision 1a, rather than a surviving spouse benefit.

(b) If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the dependent children's benefit under subdivisions 1 and 1a, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity under section 353.32, subdivision 1a, must be reduced by the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 1a.

(c) The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement fund adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

New language is indicated by underline, deletions by strikethrough.

Subd. 1c. COORDINATED MEMBERS. Except for ~~any~~ benefits provided ~~pursuant to~~ under section 353.32, subdivisions 1 and 1a, ~~there are~~ no survivor benefits are payable to the surviving spouse or dependent children of a deceased coordinated member.

Sec. 18. Minnesota Statutes 1990, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. SURVIVING SPOUSE OPTIONAL ANNUITY. If a member or former member who has attained at least age 50 and has credit for not less than three years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit begins to accrue in accordance with section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest ~~provided in~~ under subdivision 1, or ~~survivor~~ surviving spouse benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed ~~as provided in~~ under sections 353.29, subdivisions 2 and 3; ~~and~~ 353.30, subdivisions 1, 1a, 1b, 1c, and 5; and 353.31, subdivision 3. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

Sec. 19. Minnesota Statutes 1990, section 353.33, subdivision 3a, is amended to read:

Subd. 3a. OPTIONAL ANNUITY ELECTION. A disabled member may elect to receive the normal disability benefit or an optional annuity ~~as provided in~~ under section 353.30, subdivision 3. The election of an optional annuity ~~shall~~ must be made prior to the commencement of payment of the disability benefit. The optional annuity ~~shall~~ must begin to accrue on the same date as provided for the disability benefit.

(1) If a person who is not the spouse of a member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under sections 353.31, subdivision 1, and 353.32, subdivision 1a. If the spouse of the

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member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent children, if any, continue to be eligible for survivor benefits under section 353.31, subdivision 1, including the minimum benefit in section 353.31, subdivision 1a. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefits; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 20. Minnesota Statutes 1990, section 353.34, subdivision 1, is amended to read:

Subdivision 1. **REFUND OR DEFERRED ANNUITY.** Any ~~A~~ member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, ~~shall be~~ is entitled to a refund of accumulated employee deductions ~~as provided in~~ under subdivision 2, or to a deferred annuity ~~as provided in~~ under subdivision 3. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus ~~five~~ six percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to the date of termination of public service, or the expiration of 120 days of layoff; ~~and~~. A refund ~~shall~~ must be paid within 120 days following receipt of the application; ~~provided unless~~ the applicant has ~~not~~ again become a public employee required to be covered by the association.

Sec. 21. Minnesota Statutes 1990, section 353.46, subdivision 4, is amended to read:

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Subd. 4. Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, must be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973. If the survivor is also eligible to receive a retirement annuity from the association, the survivor is eligible to receive both benefits even upon remarriage.

Sec. 22. Minnesota Statutes 1990, section 353.64, is amended by adding a subdivision to read:

Subd. 5a. 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.

Sec. 23. Minnesota Statutes 1990, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. **OPTIONAL ANNUITY ELECTION.** A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

(1) If the person who is not the spouse of the member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under section 353.657, subdivisions 2 and 2a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor benefits, including the minimum benefit under section 353.657, subdivision 3. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten

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percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 24. Minnesota Statutes 1990, section 353.657, is amended to read:

353.657 SURVIVOR BENEFITS.

Subdivision 1. In the event any member of the police and fire fund dies from any cause before retirement or after becoming disabled and receiving disability benefits ~~if no optional annuity form was elected under section 353.656, subdivision 1a,~~ the association shall grant survivor benefits to a surviving spouse ~~who had the same legal residence as the member at the time of death, as defined in section 353.01, subdivision 20,~~ and who was married to the member for a period of at least one year, except that if death occurs in the line of duty no time limit is required; ~~and, The association shall also grant survivor benefits to a dependent child or children, unmarried and under the age of 18 years as defined in section 353.01, subdivision 15.~~ The spouse and child or children are entitled to monthly benefits as provided in the following subdivisions.

Subd. 2. The spouse, for life ~~or until remarriage,~~ shall receive a monthly benefit equal to 50 percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Subd. 2a. **DEATH WHILE ELIGIBLE SURVIVOR BENEFIT.** If a member or former member who has attained the age of at least 50 years and has credit for not less than three years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit. The benefit ~~shall be in lieu of~~ may be elected instead of a refund with interest ~~provided in under~~ section 353.32, subdivision 1, ~~or survivor surviving spouse~~ benefits otherwise payable ~~pursuant to under~~ subdivisions 1 and 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the benefit of the dependent child or children under subdivision 3, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity must be reduced by the amount nec-

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essary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 3. The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement fund adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Subd. 3. ~~Each A dependent child, until the child reaches the age of 18 years as defined in section 353.01, subdivision 15, shall receive a monthly benefit equal to ten percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred. A dependent child shall receive this benefit until age 23, so long as the child submits evidence of full-time enrollment in an accredited post-secondary educational institution for at least five of the 12 months immediately preceding the month for which benefits are sought. Payments for the benefit of any qualified a dependent child shall must be made to the surviving parent, or if there be none, to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised advises the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall must not exceed an amount equal to 70 percent of the member's specified average monthly salary, and the minimum benefit per family shall, including the joint and survivor optional annuity under subdivision 2a, and section 353.656, subdivision 1a, must not be less than 50 percent of the member's specified average monthly salary.~~

Subd. 4. If the member shall die under circumstances which entitle a surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

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Sec. 25. Minnesota Statutes 1990, section 353A.01, subdivision 1, is amended to read:

Subdivision 1. **VOLUNTARY CONSOLIDATION AUTHORIZED.** It is the intent and policy of the legislature in sections 353A.01 to 353A.10 to authorize, on a voluntary elective basis, any local police or salaried firefighters relief association and the respective municipality to effect the consolidation of the local relief association ~~into~~ with the public employees ~~police and fire fund~~ retirement association established by chapter 353.

Sec. 26. Minnesota Statutes 1990, section 353A.02, subdivision 16, is amended to read:

Subd. 16. **LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNTS.** "Local relief association consolidation accounts" means the special accounts ~~created within~~ consolidated with the fund by public employees retirement association under sections 353.65, subdivision 1, and 353A.09, subdivision 1.

Sec. 27. Minnesota Statutes 1990, section 353A.02, is amended by adding a subdivision to read:

Subd. 24a. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION. "Public employees retirement association" means the retirement system that administers the public employees police and fire fund and the local relief association consolidated accounts.

Sec. 28. Minnesota Statutes 1990, section 353A.03, is amended to read:

353A.03 VOLUNTARY CONSOLIDATION OPTION.

Notwithstanding any provision of law to the contrary, any local police or firefighters relief association, as defined in section 353A.02, subdivision 15, may consolidate with the public employees ~~police and fire fund~~ retirement association as provided in sections 353A.01 to 353A.10.

Sec. 29. Minnesota Statutes 1990, section 353A.06, is amended to read:

353A.06 FINALIZATION OF CONSOLIDATION.

Upon the completion of the applicable actions preliminary to consolidation finalization under section 353A.05, each entity shall report the result of those actions to the relief association and to the municipality. Upon final approval by the municipality ~~as provided in~~ under section 353A.04, subdivision 8, the consolidation of the relief association with the public ~~employee police and fire fund~~ employees retirement association is scheduled to occur. The consolidation ~~shall be~~ is effective as of the date established for consolidation by the board of the public employees retirement association. The effect of the consolidation ~~shall be as provided in~~ is governed under sections 353A.07 to 353A.09.

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Sec. 30. Minnesota Statutes 1990, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. **ELECTION OF COVERAGE BY CURRENT RETIREES.** ~~Any~~ A person who is receiving a service pension, disability benefit, or survivorship benefit ~~shall have the option~~ is eligible to elect ~~to have~~ benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage shall be limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the benefit or pension payable as of the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person. The survivorship benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan ~~shall~~ must be calculated under the relief association benefit plan in effect on the effective date of the consolidation and ~~shall be~~ is subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the survivorship benefit payable.

By electing the public employees police and fire fund benefit plan, ~~any~~ a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least ~~18 months~~ 7 months, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least ~~18 months~~ shall be entitled 7 months is eligible to receive ~~any a~~ partial adjustment payable from the Minnesota postretirement investment fund under section 11A.18, subdivision 9 ~~as of the first January 1 occurring after the effective date of consolidation.~~

The election by any pension or benefit recipient ~~shall~~ must be made on or before the deadline established by the board of the public employees retirement association; ~~which shall be established~~ in a manner ~~which that~~ recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 31. Minnesota Statutes 1990, section 353C.06, subdivision 3, is amended to read:

Subd. 3. **ANNUITY AMOUNT.** The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and 2.5 percent for each additional year of allowable service, and pro

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rata for completed months less than a full year, determines the amount of the normal annuity. If a person has earned allowable service in the public employees retirement association or the public employees police and fire fund ~~for performing services other than those of a local government correctional employee~~ prior to participation under this chapter, the annuity representing such service must be computed in accordance with the ~~coordinated~~ formula under sections 353.29 and 353.30 or 353.651, whichever applies.

Sec. 32. Minnesota Statutes 1990, section 353C.07, subdivision 1, is amended to read:

Subdivision 1. **AUGMENTATION FOR PRIOR SERVICE BENEFITS.** Unless prior service has been transferred or unless a combined service annuity under section 356.30 has been elected, an employee who becomes a local government correctional employee after being a member of the public employees retirement association or the public employees police and fire fund is covered under section 353.71, subdivision 2, with respect to that prior service. An employee who becomes a member of the public employees retirement association or the public employees police and fire fund after being a local government correctional employee is also covered under section 353.71, subdivision 2, with respect to that prior service, unless calculated under section 356.30.

Sec. 33. Minnesota Statutes 1990, section 353C.08, subdivision 2, is amended to read:

Subd. 2. **NONDUTY DISABILITY QUALIFICATION REQUIREMENTS.** A local government correctional employee who ~~after not less than five years~~ has at least one year of covered service, and who, before reaching the age of 55, becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 353C.06, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Sec. 34. Minnesota Statutes 1990, section 353C.09, is amended to read:

353C.09 SURVIVING SPOUSE OPTIONAL ANNUITY.

If a member or former member of the local government correctional service retirement plan has attained the age of at least 50 years and has credit for not less than ~~ten~~ three years of allowable service, or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, an annuity equal to the 100 percent joint and survivor annuity for which the member could have qualified had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the

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deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed on the ~~coordinated formula as provided in~~ formulas under sections 353.29, subdivisions 2 and 3, and 353.30, subdivisions 1, 1a, 1b, and 1c. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment must be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 35. Minnesota Statutes 1990, section 353D.01, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY.** (a) Except as provided in section 353D.11, eligibility to participate in the ~~retirement~~ defined contribution plan is open to an elected local government official of a governmental subdivision who elects to participate in the plan and who is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7; ~~and~~. The service of an elected local government official on an additional board, commission, or committee, even if part of the official's elected position, is not covered service under this plan. Eligibility to participate in the defined contribution plan terminates when the participant ceases to be an elected local government official. For purposes of this chapter, an elected local government official does not include an elected county sheriff.

(b) Eligibility to participate is open to basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate. For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Elected local government official does not include an elected county sheriff.

(c) Except as provided in section 353D.11, elected local government officials and first response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the plan.

Sec. 36. Minnesota Statutes 1990, section 353D.02, is amended to read:

353D.02 ELECTION OF COVERAGE.

(a) Eligible elected local government officials may elect to participate in the defined contribution plan after being elected or appointed to a public office by

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filing ~~an~~ a membership application to participate on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the month after the application is received in the association's office or on the date when the term of office commences, whichever date is later. pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by the association within 60 days of the receipt of the contributions. If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2. An election to participate in the plan is irrevocable during incumbency in office.

(b) Each public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity with eligible personnel may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is irrevocable.

Sec. 37. Minnesota Statutes 1990, section 353D.04, is amended to read:

353D.04 CONTRIBUTIONS ~~TO PLAN AND DEDUCTIONS IN ERROR.~~

Subdivision 1. CONTRIBUTIONS. (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association at least monthly and must be credited to the individual account established for the participating officer.

(b) Ambulance service contributions must be remitted on a regular periodic basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

Subd. 2. DEDUCTIONS IN ERROR. Deductions taken totally or partially in error by the employer from the salary of an elected official and contributions made by the employer may be refunded upon request to the elected official and the employer.

(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.

(b) In the case of a partial refund, the association shall refund the amount of the actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.

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Sec. 38. Minnesota Statutes 1990, section 353D.05, subdivision 2, is amended to read:

Subd. 2. **INVESTMENT OPTIONS.** (a) ~~An individual~~ A participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, the guaranteed return account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of contributions to be used to purchase shares in each of the accounts.

(b) ~~Twice in a calendar year,~~ A participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment fund or funds specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceed 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account. A choice of investment options is effective no later than the first pay date occurring more than 30 days after receipt of the written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the guaranteed return account. If a partial transfer is made, a minimum of \$200 must be transferred and a minimum balance of \$200 must remain in the previously selected investment options. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the guaranteed return account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) ~~Twice in a calendar year,~~ A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts other than the guaranteed return account. If a partial transfer of previously purchased shares is selected, a minimum of \$200 must be transferred and a minimum balance of \$200 must remain in the previously selected investment option. A change under this paragraph is effective as soon as cash flow to an account permits, but not later than six months from the requested change.

Sec. 39. Minnesota Statutes 1990, section 353D.07, subdivision 2, is amended to read:

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Subd. 2. **PAYMENT OF BENEFITS.** Withdrawal of or a retirement benefit based on individual participant contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of a participant ~~for a period that exceeds 30 days.~~ No investment options or transfers of all or a portion of the deceased elected official's shares in the income share, growth share, common stock index, bond market, money market, or guaranteed investment accounts shall be made following death or termination of the participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Sec. 40. Minnesota Statutes 1990, section 353D.07, subdivision 3, is amended to read:

Subd. 3. **FORM OF BENEFIT.** A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of retirement and may be rolled over into another qualified plan at the option of the participant. As an alternative to a ~~lump sum~~ lump-sum distribution, the participant may choose to have the association ~~use~~ transfer the total account value ~~to for the purchase of an annuity payable at a designated age from to~~ an insurance company of the participant's choice that is licensed to do business in the state.

Sec. 41. Minnesota Statutes 1990, section 353D.12, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY; CONTRIBUTIONS.** An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before ~~May 9, 1990~~ June 30, 1991, that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353. The association shall not accept contributions for prior service after the elected official ceases to hold elected office.

Sec. 42. Minnesota Statutes 1990, section 354B.04, subdivision 2, is amended to read:

Subd. 2. **EMPLOYER CONTRIBUTIONS.** The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3; ~~and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5.~~

Sec. 43. Laws 1990, chapter 570, article 8, section 14, subdivision 1, is amended to read:

Subdivision 1. **ENTITLEMENT.** An elected public officer who participates in the public employees retirement association defined benefit plan under Minnesota Statutes, chapter 353, may purchase service credit from the association

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for all or any portion of prior uncredited service as an elected public officer when the officer could have been, but was not, a member of the association on account of failure to exercise the membership option under Minnesota Statutes, section 353.01, subdivision 7. The purchase of prior service credit ceases when the elected official no longer holds an elected office.

Sec. 44. Minnesota Statutes 1990, section 356.371, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.** If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the ~~chief administrative officer~~ executive director of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

Following the election of a retirement annuity by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, must be sent by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form unless the spouse's signature confirming the receipt is on the annuity application form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, to the spouse by certified mail with restricted delivery.

Sec. 45. Minnesota Statutes 1990, section 356.86, subdivision 2, is amended to read:

Subd. 2. **AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT.** (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan annuity or benefit recipients, the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year, the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(c) For basic plan annuity or benefit recipients, the postretirement adjustment in 1989 is the greater of:

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(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

(i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and

(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the Social Security Administration.

In 1990 and each following year, each eligible basic plan annuity or benefit recipient shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years, the adjustment must be paid on December 1 to those persons receiving an annuity or benefit on the preceding November 30. A person who is eligible may elect to participate in an optional annuity or benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid or returns the amount of adjustment to the retirement fund. Written notice of the waiver of the postretirement adjustment is irrevocable for the year during which it was made.

Sec. 46. Minnesota Statutes 1990, section 356.86, subdivision 4, is amended to read:

Subd. 4. **OPTIONAL POSTRETIREMENT ADJUSTMENT PAYMENT SCHEDULE.** Basic plan annuity or benefit recipients receiving adjustments under subdivision 2, paragraph (c), clause (2), and whose adjustment exceeds 20 percent of their Minnesota plan annuity or benefit may elect to have the amount of the adjustment paid in equal monthly amounts instead of receiving a lump sum payment on December 1, 1989. Selection of this ~~option~~ optional payment schedule must be made by the recipient in writing on forms prepared by the retirement association. This ~~option~~ optional payment schedule may be revoked by the recipient in writing prior to the November 1 preceding the December 1 lump sum distribution. Upon the death of the annuity or benefit recipient, any remaining unpaid monthly amounts shall be paid to the surviving spouse, or if no spouse survives, to the annuity or benefit recipient's beneficiary or estate.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 47. Minnesota Statutes 1990, section 356.87, is amended to read:

356.87 HEALTH INSURANCE WITHHOLDING.

The ~~Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund listed in section 356.20, subdivision 2, shall, upon authorization of a person entitled to receive benefits,~~ withhold health insurance premium amounts from the ~~pension benefits~~ retirement annuity, disability benefit or survivor benefit, and pay the premium amounts to the public employees insurance plan. The public employees insurance plan shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

Sec. 48. TERMINATION OF MEMBERSHIP.

Subdivision 1. ELIGIBILITY. Notwithstanding the limitations in Minnesota Statutes, section 353D.02, a member of the public employees defined contribution plan, who was born on September 22, 1948, and has been employed by independent school district No. 701 from 1984 to the present, may revoke participation in the defined contribution plan that began on October 1, 1990.

Subd. 2. RETURN OF CONTRIBUTIONS. The employee contributions shall be returned to the eligible individual in subdivision 1. The remaining value in the former participant's account, if any, shall be remitted to the association.

Sec. 49. TEMPORARY; PUBLIC HOSPITAL STATUS.

The change specified in section 2 does not impact the status of any hospital district as of the effective date of section 2 regarding inclusion or exclusion of an employing unit.

Sec. 50. TRANSFER.

Notwithstanding Minnesota Statutes, section 354B.03, subdivision 3, or any other provision of law to the contrary, a person who is an employee of the state university board on the effective date of this section who was employed by the state university board before 1964, and who elected to transfer retirement coverage from the teachers retirement association to the individual retirement account plan created in Minnesota Statutes, chapter 354B, may revoke that transfer prospectively and have future service credited by the teachers retirement association. A revocation must be made in a manner prescribed by the executive director of the teachers retirement association and must be made within 60 days of the effective date of this section. The election is effective only for future service and does not permit transfer to the teachers retirement association of any contributions made to the individual retirement account plan.

Sec. 51. REPEALER.

New language is indicated by underline, deletions by ~~strikeout~~.

Minnesota Statutes, sections 353.33, subdivision 5a, and 353C.07, subdivision 2, are repealed.

Sec. 52. EFFECTIVE DATE.

Sections 1 to 51 are effective the day following final enactment. Section 20 applies retroactively to May 16, 1989, and applies to all refunds paid after the day following final enactment. Section 30 applies retroactively to December 31, 1990. Section 48 applies retroactively to October 1, 1990. Section 42 is effective for the first payroll period beginning after July 1, 1991. Section 50 is effective the day following final enactment.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 9:00 p.m.

CHAPTER 342—S.F.No. 1179

An act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; requiring a debt capacity forecast; modifying provisions relating to budget preparation; validating the sale of certain school district bonds; exempting certain construction loans from the mortgage registry tax; amending Minnesota Statutes 1990, sections 16A.11, subdivisions 1, 3, and by adding subdivisions; 400.101; 429.061, subdivision 3; 447.49; 469.014; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 16A, 16B, 462C, and 469.

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

Section 1. [16A.105] DEBT CAPACITY FORECAST.

By January 14 of each odd-numbered year the governor shall submit to the legislature a debt capacity forecast. The debt capacity forecast must include statements of the indebtedness of the state for bonds, notes, and other forms of long-term indebtedness that are not accounted for in proprietary or fiduciary funds, including general obligation bonds, moral obligation bonds, revenue bonds, loans, grants payable, and capital leases. The forecast must show the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and the next six fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity for the next six fiscal years.

Sec. 2. Minnesota Statutes 1990, section 16A.11, subdivision 1, is amended to read:

Subdivision 1. **WHEN.** The governor shall submit a ~~two-part~~ three-part budget to the legislature. Parts one and two, the budget message and detailed

New language is indicated by underline, deletions by ~~strikeout~~.