

Notwithstanding any general or special law to the contrary, in addition to the current benefits payable, the benefits payable to retired police officers and their surviving spouses by the Thief River Falls police trust fund are increased by \$25 a month. Increases are retroactive to January 1, 1992.

**Sec. 2. LOCAL APPROVAL.**

Section 1 is effective on approval by the Thief River Falls city council and compliance with Minnesota Statutes, section 645.021.

Presented to the governor April 6, 1992

Signed by the governor April 8, 1992, 4:29 p.m.

**CHAPTER 432—H.F.No. 2137**

*An act relating to retirement; the Minnesota state retirement system and the public employees retirement association; making various changes to administration, benefits, and investment practices; amending Minnesota Statutes 1990, sections 352.01, subdivision 2b; 352.029, subdivisions 1 and 2; 352.113, subdivisions 1, 3, 4, and 10; 352.12, subdivision 1; 352.22, subdivision 3; 352D.12; 353.01, subdivision 28; 353.27, subdivision 10; 353.29, subdivision 7; 353.33, subdivisions 1, 6, 6a, and 6b; 353.34, subdivision 2; 353.65, subdivision 1; 353.656, subdivision 5; 353.659; 353.68, subdivision 4; 353A.02, subdivision 12; 353A.04, subdivision 2; 353A.05, subdivision 3; 353A.07, subdivision 3; 353A.08, subdivision 6, and by adding a subdivision; 353A.09, subdivision 1; 353A.10, subdivision 4, and by adding a subdivision; 356.30, subdivision 1; 356.302, subdivision 6; 356.303, subdivision 3; 490.124, subdivision 11; Minnesota Statutes 1991 Supplement, sections 353.01, subdivisions 2b, 16, and 20; 353.27, subdivisions 12 and 12b; 353.31, subdivision 1; 353.32, subdivision 1a; 353.64, subdivision 5a; 353.657, subdivisions 1, 2, and 2a; 353A.03; 353A.06; 353D.01, subdivision 2; 353D.02; 353D.03; 353D.04, subdivision 1; 353D.05, subdivisions 2 and 3; 353D.07, subdivisions 2 and 3; 353D.12, subdivision 1; Laws 1990, chapter 570, article 8, section 14, subdivision 1, as amended; Laws 1991, chapter 269, article 2, section 13; proposing coding for new law in Minnesota Statutes, chapter 353; repealing Minnesota Statutes 1990, sections 352.029, subdivision 4; 353.656, subdivision 7; and 353.71, subdivision 3.*

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

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## ARTICLE 1

## MINNESOTA STATE RETIREMENT SYSTEM

Section 1. Minnesota Statutes 1990, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** "State employee" does not include:

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;
- (4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;
- (5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;
- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;
- (12) employees of the Sibley House Association;
- (13) employees of the ladies of the ~~Grand Army of the Republic~~;

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(14) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

~~(15)~~ (14) state troopers;

(16) (15) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(17) (16) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

~~(18)~~ (17) persons described in section 352B.01, subdivision 2, clauses (2) to (5);

(19) (18) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

~~(20)~~ trainees paid under budget classification number 41, and other (19) trainee employees, except those listed in subdivision 2a, clause (10);

(21) (20) persons whose compensation is paid on a fee basis;

~~(22)~~ (21) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

~~(23)~~ (22) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(24) (23) chaplains and nuns who ~~have taken a vow of poverty as members of a religious order~~ 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, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(25) labor service employees employed as a laborer ~~+~~ on an hourly basis;

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~~(26)~~ (24) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

~~(27)~~ (25) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

~~(28)~~ (26) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

~~(29)~~ (27) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

~~(30)~~ (28) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

~~(31)~~ (29) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

~~(32)~~ (30) persons employed in positions designated by the department of employee relations as student workers;

~~(33)~~ (31) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days after appointment that coverage is desired;

~~(34)~~ (32) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;

~~(35)~~ (33) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

~~(36)~~ (34) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5; and

~~(37)~~ (35) persons who are employed as full-time firefighters by the depart-

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ment of military affairs and as firefighters are members of the public employees police and fire fund.

Sec. 2. Minnesota Statutes 1990, section 352.029, subdivision 1, is amended to read:

Subdivision 1. **QUALIFICATIONS.** ~~A former state employee who is~~ An employee of a labor organization that is an exclusive bargaining agent representing state employees or a state employee on leave of absence without pay to provide service as an employee or officer of a labor organization that is an exclusive bargaining agent representing state employees, may choose under subdivision 2 to be covered by the system for service with the labor organization unless specifically excluded under section 352.01, subdivision 2b.

Sec. 3. Minnesota Statutes 1990, section 352.029, subdivision 2, is amended to read:

Subd. 2. **ELECTION.** A person described in subdivision 1 shall be covered by the system if written election to be covered is delivered to the executive director before December 31, ~~1985~~ 1992, within 90 days of being employed by the labor organization, or within 90 days of starting the first leave of absence with an exclusive bargaining agent, whichever is later.

Sec. 4. Minnesota Statutes 1990, section 352.113, subdivision 1, is amended to read:

Subdivision 1. **AGE AND SERVICE REQUIREMENTS.** ~~Any~~ An employee covered by the system, who is less than normal retirement age ~~and~~ who becomes totally and permanently disabled after three or more years of allowable service, is entitled to a disability benefit in an amount provided in subdivision 3. If the disabled employee's state service has terminated at any time, the employee must have at least two years of allowable service after last becoming a state employee covered by the system. Refunds may be repaid under section 352.23 before the effective accrual date of the disability benefit under subdivision 2.

Sec. 5. Minnesota Statutes 1990, section 352.113, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF BENEFITS.** The total and permanent disability benefit must be computed in the manner provided in section 352.115. The disability benefit shall be the normal annuity without reduction for each month the employee is under normal retirement age ~~65~~ at the time of becoming disabled. A disabled employee may choose to receive the normal disability benefit or an optional annuity as provided in section 352.116, subdivision 3. This choice must be made before the start of payment of the disability benefit and is effective the date on which the disability begins to accrue as provided in subdivision 2.

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Sec. 6. Minnesota Statutes 1990, section 352.113, subdivision 4, is amended to read:

Subd. 4. **MEDICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.** An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical advisor. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. The medical advisor shall consider the reports of the physicians and any other evidence supplied by the employee or other interested parties. If the medical advisor finds the employee totally and permanently disabled, the advisor shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine the propriety of authorizing payment of a disability benefit as provided in this section. The employee must be on approved leave of absence from the employer to be eligible to apply for a total and permanent disability benefit, but the fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age ~~65~~ as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 7. Minnesota Statutes 1990, section 352.113, subdivision 10, is amended to read:

Subd. 10. **EMPLOYEE AGAIN DISABLED AFTER RESUMING EMPLOYMENT.** If a disabled employee resumes gainful employment with the state and is not entitled to continued payment of a disability benefit as provided in subdivision 7, the right to a disability benefit ends when the employee has been employed for one year thereafter. If the employee again becomes totally and permanently disabled before reaching normal retirement age ~~65~~, application for a disability benefit may again be made. If the employee is entitled to a disability benefit it must be computed as provided in subdivision 9.

Sec. 8. Minnesota Statutes 1990, section 352.12, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE TERMINATION OF SERVICE.** If an

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employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest ~~thereon to the date of death~~ at the rate of six percent per annum compounded annually. Interest must be computed to the first day of the month in which the refund is processed and based on fiscal year balances. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

Sec. 9. Minnesota Statutes 1990, section 352.22, subdivision 3, is amended to read:

Subd. 3. **DEFERRED ANNUITY.** (a) ~~Any~~ An employee ~~with who has~~ at least three years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and ~~thereby~~ be entitled to a deferred retirement annuity. ~~This~~ The annuity must be computed ~~as provided by~~ under the law in effect when state service terminated, on the basis of allowable service before termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, who does not return to state service shall have ~~any~~ an annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the employee's last working day.

(c) No application for a deferred annuity ~~shall~~ may be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity ~~shall begin~~ begins to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position not covered by the retirement system ~~nor (3) before the day following the termination of employment in a position that requires the employee to be a member of either the public employees retirement association or the teachers retirement association.~~

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of termination of service.

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Sec. 10. Minnesota Statutes 1990, section 490.124, subdivision 11, is amended to read:

Subd. 11. **OPTIONAL ANNUITIES.** No survivor or death benefits may be paid in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided in sections 490.121 to 490.132. ~~Within 30 days before retirement,~~ Except as provided in subdivision 10, a judge may elect to receive, instead of the normal retirement annuity, an optional retirement annuity in the form of an annuity payable for a period certain and for life after that period, a joint and survivor annuity without reinstatement in the event of the designated beneficiary predeceasing the retired judge, or a joint and survivor annuity with reinstatement in the event of the designated beneficiary predeceasing the retired judge. An optional retirement annuity must be actuarially equivalent to a ~~single life~~ single-life annuity with no term certain and must be established by the board of directors of the Minnesota state retirement system. In establishing these optional retirement annuity forms, the board shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement. The recommendations must be a part of the permanent records of the board.

Sec. 11. **REPEALER.**

Minnesota Statutes 1990, section 352.029, subdivision 4, is repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective the day following final enactment.

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## ARTICLE 2

### PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1990, section 352D.12, is amended to read:

#### 352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at six percent a year compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus six percent interest a year compounded annually and have the accumulated employee and equal employer contributions trans-

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ferred to the unclassified program with interest at six percent a year compounded annually based on fiscal year balances. If a person repays a refund and subsequently elects to have the money transferred to the unclassified program, the repayment amount, including interest, is added to the fiscal year balance in the year which the repayment was made.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later.

Sec. 2. Minnesota Statutes 1991 Supplement, section 353.01, subdivision 2b, is amended to read:

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

(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 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

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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;

(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~~ retirement association, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected the type of benefit coverage provided by the public employees police and fire fund as ~~provided in under~~ 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~~ becomes 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

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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~~ part-time employees as defined 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;

(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. 3. Minnesota Statutes 1991 Supplement, 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 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.

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(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. 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 its commitment to pay~~ 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 periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of six percent a year, compounded annually, from the date or dates that the contributions were first payable until full payment is made. An employer shall also make the employer and additional employer contributions, plus six percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days after termination of public service, whichever is applicable. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave.

(e) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay limited to one year.

(f) "Allowable service" also means an authorized temporary layoff; or under subdivision 12.

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(g) “Allowable service” also means a maternity, paternity, or adoption leave. The association ~~will~~ shall 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~~ also receives up to two months of service credit.

(e) (h) “Allowable service” also means a period during which a member is on an 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. The matching employer contribution and additional employer contribution under section 353.27, subdivisions 3 and 3a, must be paid by the department employing the member upon return to public service 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) (i) 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) (h) and section 352.01, subdivision 11.

(g) (j) 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 the type of benefit coverage provided by the public employees police and fire fund ~~benefit plan as provided in~~ under 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. 4. Minnesota Statutes 1991 Supplement, section 353.01, subdivision 20, is amended to read:

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

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Sec. 5. Minnesota Statutes 1990, section 353.01, subdivision 28, is amended to read:

Subd. 28. **RETIREMENT.** "Retirement" means the withdrawal of a member from active public service by a member who is paid a retirement annuity thereafter and commences with the that begins to accrue on a date designated by the board of trustees when the retirement annuity shall first accrue to the former member after withdrawal from active public service. This date shall determine any determines the rights specified in this chapter which occur either before or after retirement; as the case may be; but if there is not, A right to retirement must not accrue without a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement; no rights shall accrue thereunder and retirement shall not be accomplished thereby. Notwithstanding the 30-day separation requirement, a member of the defined benefit plan under this chapter, who also participates in the public employees defined contribution plan under chapter 353D for other public service, may be paid, if eligible, a retirement annuity from the defined benefit plan while participating in the defined contribution plan.

Sec. 6. Minnesota Statutes 1990, section 353.27, subdivision 10, is amended to read:

Subd. 10. **EMPLOYERS; FURNISH COPIES OF PAYROLL ABSTRACTS EMPLOYER EXCLUSION REPORTS.** The head of each a department is required to shall annually furnish the executive director with a carbon or duplicate copy of the departmental payroll abstracts for the last full pay period during the month of May for school districts and the last pay period covering calendar-year earnings for all other governmental subdivisions, respectively, in each year. Instead of a duplicate copy of the payroll abstract, the employer may submit an exception report listing only those employees who worked the last full pay period of May or December, but who are not members of the association. Minimum reporting requirements to be shown on either the payroll abstract or exception report include: (1) name of the governmental subdivision and department identification; (2) the association's assigned unit number and unique code; (3) pay period coverage dates; (4) any employee deductions; (5) gross salary for the pay period; (6) each employee's year-to-date gross pay; and (7) the reason for any exclusion an exclusion report listing only those employees in potentially PERA-eligible positions who were not reported as members of the association and who worked during the school year for school employees and calendar year for nonschool employees. The department head must certify the accuracy and completeness of the exclusion report to the association. The executive director shall prescribe the manner and forms, including standardized exclusion codes, to be used by a governmental subdivision in preparing and filing exclusion reports. The executive director shall also check the copies of all payroll abstracts against the membership records of the association the exclusion report to ascertain whether any omissions have been made by a department head in the reporting of new public employees for membership. The head of any department shall furnish a carbon or duplicate copy of the depart-

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ment payroll abstract at the request of the executive director. The executive director may delegate an association employee by appointment, in accordance with ~~under~~ section 353.03, subdivision 3a, paragraph (b), clause (5), to conduct a field audit to review the payroll records of a governmental subdivision.

Sec. 7. Minnesota Statutes 1991 Supplement, 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 the salary of an employee, the department head shall immediately, upon discovery, report the employee for membership and ~~require~~ deduct the employee deductions under subdivision 4. Upon receipt of billing from the association, the omitted employee deductions due for the 60-day period preceding membership must be deducted upon receipt of billing from the association from the employee's next salary payment and remitted to the association. The employee shall pay omitted employee deductions due for the 60 days prior to the end of the last pay period in the omission period during which salary was earned. The employer shall pay any remaining omitted employee deductions 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.

(b) An employer shall not hold an employee liable for omitted employee deductions beyond the pay period ~~that covers the 60th day preceding membership dates under paragraph (a),~~ nor attempt to recover from the employee those employee deductions paid by the employer on behalf of the employee. Omitted deductions due under paragraph (a) which are 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 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.

(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. 8. Minnesota Statutes 1991 Supplement, section 8 353.27, subdivision 12b, is amended to read:

Subd. 12b. If deductions were omitted from salary adjustments or final salary of a terminated employee who is immediately eligible to draw a monthly

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benefit, the employer shall pay the omitted employer and employer additional contributions plus interest on both ~~and~~ the employer and employee amounts due. The employee shall pay the employee deductions within six months of an initial notification from the association of eligibility to pay omitted deductions or the employee forfeits the right to make the payment.

Sec. 9. Minnesota Statutes 1990, section 353.29, subdivision 7, is amended to read:

Subd. 7. **ANNUITIES; ACCRUAL.** Except as to elected public officials, ~~all a retirement annuities annuity granted under the provisions of this chapter shall commence~~ begins with the first day of the first calendar month ~~next succeeding after~~ the date of termination of public service ~~and shall~~. The annuity must be paid in equal monthly installments; ~~but no payment shall~~ and does not accrue beyond the end of the month; in which entitlement to ~~such~~ the annuity has terminated. If the annuitant dies prior to negotiating the check for the month in which death occurs, payment ~~will~~ must be made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate.

Any An annuity granted to an elective public official ~~shall accrue~~ accrues on the day following expiration of the public office ~~held or~~ expiration of the right thereto; and to hold that office. The annuity for ~~that~~ the month ~~shall be~~ during which the expiration occurred is prorated accordingly. ~~No An~~ annuity, once granted, ~~shall~~ must not be increased, decreased, or revoked except ~~as provided in~~ under this chapter. ~~No An~~ annuity payment ~~shall~~ may be made retroactive for ~~more than three months up to one year~~ prior to that month in which a complete application is received by the executive director ~~as provided in~~ under subdivision 4.

Sec. 10. Minnesota Statutes 1991 Supplement, 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 under section 353.33 at the 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, 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

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- (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

Notwithstanding the definition of surviving spouse under section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree that is filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit even if required by the decree.

Sec. 11. Minnesota Statutes 1991 Supplement, 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~~ under 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 under subdivision 1, or 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.

Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse optional annuity despite the terms of a marriage dissolution decree filed with the association.

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 under sections 353.29, subdivisions 2 and 3; 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 con-

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tributions 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. 12. Minnesota Statutes 1990, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE, AND SALARY REQUIREMENTS.** ~~Any~~ A member who becomes totally and permanently disabled before normal retirement age and after three years of allowable service ~~shall be~~ is entitled to a disability benefit in an amount ~~provided in~~ under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming a member. ~~Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit.~~ A repayment of a refund may be made ~~before~~ within six months after the effective date of disability benefits under subdivision 2 or within six months after the date of the filing of the disability application, whichever is sooner. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized ~~pursuant to~~ under section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application ~~pursuant to~~ under this section is filed.

Sec. 13. Minnesota Statutes 1990, section 353.33, subdivision 6, is amended to read:

Subd. 6. **CONTINUING ELIGIBILITY FOR BENEFITS.** The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, ~~payments shall be made for no more than 60 days~~ must cease the first of the month following the reinstatement to the payroll.

Sec. 14. Minnesota Statutes 1990, section 353.33, subdivision 6a, is amended to read:

Subd. 6a. **MEDICAL ADVISER.** ~~The state commissioner of health executive director may contract with licensed physicians or such other licensed physician physicians on the staff of the state commissioner of health as the commissioner may designate shall, as designated by the commissioner, to be the medical adviser of the executive director association.~~

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Sec. 15. Minnesota Statutes 1990, section 353.33, subdivision 6b, is amended to read:

Subd. 6b. **DUTIES OF THE MEDICAL ADVISER.** At the request of the executive director, the medical adviser shall designate licensed physicians to examine applicants for disability benefits. The medical adviser shall pass upon all and review the medical reports based upon such these examinations required to determine whether applicants are an applicant is totally and permanently disabled as defined in section 353.01, subdivision 19, or disabled as defined in section 353.656, or eligible for continuation of disability benefits under subdivision 6. The medical examiner shall investigate also review, at the request of the executive director, all health and medical statements and certificates by or on behalf of said applicants in connection with an applicant for disability benefits, and shall report in writing to the executive director conclusions and recommendations on all those matters referred for advice.

Sec. 16. Minnesota Statutes 1990, section 353.34, subdivision 2, is amended to read:

Subd. 2. **REFUND WITH INTEREST.** Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refund in an amount equal to accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of six percent per annum compounded annually based on fiscal year balances. If a person repays a refund and subsequently applies for another refund, the repayment amount, including interest, is added to the fiscal year balance in which the repayment was made.

Sec. 17. Minnesota Statutes 1991 Supplement, section 353.64, subdivision 5a, is amended 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 and the member meets the eligibility criteria under subdivision 2 or 3. A police and fire fund member who is elected or assumes an appointive position, including but not limited to, the positions of city council member, city manager, and finance director is not eligible to retain membership in the public employees police and fire fund.

Sec. 18. Minnesota Statutes 1990, section 353.65, subdivision 1, is amended to read:

Subdivision 1. There is a special fund known as The "public employees police and fire fund." In that fund there shall be deposited is established for police officers and firefighters who meet the eligibility criteria under section 353.64. Employee contributions, employer contributions, other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), and other amounts authorized by law, including all

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employee and employer contributions of members transferred. ~~Within must be deposited in the public employees police and fire fund are accounts for each municipality known as the "local relief association consolidation accounts," which are governed by section 353A.09.~~

Sec. 19. Minnesota Statutes 1990, section 353.656, subdivision 5, is amended to read:

Subd. 5. No disability benefit payment shall be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when any such benefits are being paid, the association shall have the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed. Payment of a disability benefit must cease the first of the month following reinstatement to a position covered by the public employees police and fire fund.

Sec. 20. Minnesota Statutes 1991 Supplement, section 353.657, subdivision 1, is amended to read:

Subdivision 1. In the event ~~any~~ a member of the police and fire fund dies from any cause before retirement or after becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, 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. The association shall also grant survivor benefits to a dependent child or children, as defined in section 353.01, subdivision 15.

Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

The spouse and child or children are entitled to monthly benefits as provided in the following subdivisions.

Sec. 21. Minnesota Statutes 1991 Supplement, section 353.657, subdivision 2, is amended to read:

Subd. 2. The spouse, for life, 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. If the member was a part-time police officer or firefighter, the monthly survivor benefit is based on the salary rate in effect for that member's part-time service during the last six months of allowable service. If the member's status changed from full time to part time for health reasons

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during the last year of employment, the monthly survivor benefit is based on the full-time salary rate of a police officer or firefighter in effect over the last six months of allowable service preceding the month in which the death occurred.

Sec. 22. Minnesota Statutes 1991 Supplement, section 353.657, subdivision 2a, is amended to read:

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 disability benefit has become~~ becomes payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit.

Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the death while eligible survivor benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a death while eligible survivor benefit despite the terms of a marriage dissolution decree filed with the association.

The benefit may be elected instead of a refund with interest under section 353.32, subdivision 1, or surviving spouse benefits otherwise payable 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 necessary 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

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deceased employee over and above the total of the annuities paid and payable to the surviving spouse ~~shall~~ must 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.

Sec. 23. Minnesota Statutes 1990, section 353.659, is amended to read:

**353.659 LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNT BENEFITS.**

For any person who has prior service covered by a local police or firefighters relief association which has consolidated with the public ~~employee police and fire fund~~ employees retirement association and who has elected the type of benefit coverage provided by the public employees police and fire fund benefit plan as ~~provided in~~ under section 353A.08 following the consolidation, any retirement benefits payable ~~shall be~~ are governed by the applicable provisions of this chapter. For any person who has prior service covered by a local police or firefighters relief association which has consolidated with the public employees ~~police and fire fund~~ retirement association and who has not elected the type of benefit coverage provided by the public employees police and fire fund benefit plan as ~~provided in~~ under section 353A.08 following the consolidation, any retirement benefits payable ~~shall be~~ are governed by the provisions of sections 353B.01 to 353B.13 which apply to the relief association.

Sec. 24. Minnesota Statutes 1990, section 353.68, subdivision 4, is amended to read:

Subd. 4. The deferred annuity of section 353.34, subdivision 3, as it applies to members of the police and fire fund ~~shall commence at age 55, begins and shall be~~ is computed in the manner provided in section 353.651 on the basis of the law in effect on the date of termination of public service ~~and shall be~~. The deferred annuity is augmented as provided in under section 353.71, subdivision 2.

Sec. 25. Minnesota Statutes 1990, section 353A.02, subdivision 12, is amended to read:

Subd. 12. **FUND.** "Fund" means the public employees police and fire consolidation fund established by sections ~~353.63 to 353.68~~ 353A.01 to 353A.10.

Sec. 26. Minnesota Statutes 1991 Supplement, section 353A.03, is amended to read:

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**353A.03 VOLUNTARY CONSOLIDATION OPTION.**

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

Sec. 27. Minnesota Statutes 1990, section 353A.04, subdivision 2, is amended to read:

Subd. 2. **INITIATION PROCEDURE.** To initiate the consolidation procedure, the minimum required proportion of the relief association membership shall submit a signed petition to the board of trustees recommending to the board, the balance of the membership of the relief association and to the municipality that the relief association be consolidated ~~into the fund~~ with the public employees retirement association. Upon receipt of the petition and authentication of the signatures contained in it, the board of trustees shall hold a public hearing on the issue and shall adopt a resolution setting forth its recommendation to the membership and to the municipality on the issue and setting forth the procedure for a membership referendum as ~~provided in under~~ subdivision 4.

Sec. 28. Minnesota Statutes 1990, section 353A.05, subdivision 3, is amended to read:

Subd. 3. **FUND ASSOCIATION ACTIONS.** ~~Upon approval of consolidation by the membership as provided in section 353A.04, the executive director of the public employees retirement association shall request from the relief association and the municipality the information necessary to allow the fund to complete the consolidation, which at a minimum shall include the information required to be provided to the executive director of the commission and to the actuary retained by the commission by subdivision 1. The chief administrative officer of the relief association and the chief administrative officer of the municipality shall provide the requested information in a timely manner. The data shall be reported on forms or in a manner prescribed by the executive director of the public employees retirement association. The data shall be current as of the date of the approval of the consolidation by the membership and shall thereafter include updated data on a monthly basis following the initial collection of data, also in the manner or on forms prescribed by the executive director of the public employees retirement association. The chief administrative officer of the municipality and the chief administrative officer of the relief association shall certify as to the accuracy of the data reported to the public employees retirement association, and the public employees retirement association may rely on that data without undertaking any affirmative duty to verify the data. Upon receipt of the report of actuarial calculations under subdivision 1 and notice from the state board of the completion of the preliminary actions under subdivision 2, the association shall notify the chief administrative officer of the municipality and the chief administrative officer of the relief association of the completion of the preliminary actions.~~

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Sec. 29. Minnesota Statutes 1991 Supplement, section 353A.06, is amended to read:

**353A.06 FINALIZATION OF CONSOLIDATION.**

Subdivision 1. NOTICE OF FINAL APPROVAL. 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 governing body of the municipality under section 353A.04, subdivision 8, the consolidation of the relief association with, the chief administrative officer of the municipality shall provide notice of the local action to the chief administrative officer of the relief association, the executive director of the state board, the executive director of the commission, the executive director of the public employees retirement association, the commissioner of finance, the secretary of state, and the state auditor. The board of trustees of the public employees retirement association is scheduled to occur. The consolidation is effective as of the date established for consolidation by the board of the public employees retirement association. The effect of the consolidation is governed under sections 353A.07 to 353A.09, at its next regularly scheduled meeting, shall set the effective date for the consolidation and notify the persons under this subdivision who are to receive notice from the municipality.

Subd. 2. INFORMATION REQUIRED. Upon final approval of consolidation by the municipality under section 353A.04, the executive director of the public employees retirement association shall request from the relief association and the municipality the information necessary to allow the association to complete the consolidation. The information, at a minimum, must include all data required to be provided by the executive director of the commission and the actuary retained by the commission under section 353A.05, subdivision 1. The chief administrative officer of the relief association and the chief administrative officer of the municipality shall provide the requested information in a timely manner. The data must be reported on forms or in a manner prescribed by the executive director of the association. The data must be current as of the effective date of the consolidation with the association. The chief administrative officer of the municipality and the chief administrative officer of the relief association shall certify the accuracy of the data reported to the association. The executive director may rely on that data without undertaking any affirmative duty to verify the data.

Sec. 30. Minnesota Statutes 1990, section 353A.07, subdivision 3, is amended to read:

Subd. 3. TRANSFER OF ASSETS. On the effective date of consolidation, the chief administrative officer of the relief association shall effect the transfer of the entire assets of the special fund of the relief association to the fund public employees retirement association. The transfer may must include any investment securities of the special fund consolidation account which are not deter-

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mined to be ineligible or inappropriate by the executive director of the state board under section 353A.05, subdivision 2, at the market value of the investment security as of the effective date of the consolidation. The transfer ~~shall~~ must include any accounts receivable determined by the executive director of the state board as capable of being collected. The transfer ~~shall~~ must also include an amount, in cash, representing any remaining investment security or other asset of the ~~special fund~~ consolidation account which was liquidated, after defraying any accounts payable.

As of the effective date of consolidation, subject to the authority of the state board, the board of trustees of the public employee retirement association ~~shall have~~ has legal title to and management responsibility for any transferred assets as trustees for any person having a beneficial interest arising out of benefit coverage provided by the relief association. The ~~fund~~ shall be public employees retirement association is the successor in interest for all claims for and against the ~~special fund of the relief association~~ consolidation account or the municipality with respect to the ~~special fund~~ consolidation account of the relief association; ~~except any.~~ In a claim against the relief association or the municipality or any person connected with the relief association or the municipality in a fiduciary capacity, based on any act or acts by that person which were not done in good faith and which constituted a breach of the obligation of the person as a fiduciary. As a successor in interest, the ~~fund~~ public employees retirement association may assert any applicable defense in any judicial proceeding which the board of the relief association or the municipality would have otherwise been entitled to assert.

Sec. 31. Minnesota Statutes 1990, section 353A.08, subdivision 6, is amended to read:

Subd. 6. **SPECIAL BENEFIT PROVISIONS COVERAGE.** ~~If the benefit plan of the relief association as of the date on which consolidation is initiated provides for special benefit coverage as specified in section 353A.02, subdivision 28, any A person who would have otherwise been entitled to that special benefit coverage shall retain under section 353A.02, subdivision 28, retains entitlement upon consolidation to that special benefit coverage notwithstanding the election which the person makes regarding other aspects of the benefit coverage as provided in under subdivision 1, 2, or 3. The special benefit coverage shall continue continues to be provided by the municipality and, if not provided through a contract with an insurance carrier which is authorized to do business in this state, shall must be funded on an actuarial basis using the relevant provisions of section 69.77, with the establishment by the municipality of a special account within the general fund of the municipality for this special benefit coverage; to be managed by. The chief administrative officer of the municipality; with shall manage the special benefit coverage. Disbursements must be limited to payments of the special benefit or benefits based on the relevant portion of the benefit plan of the relief association which that existed as of the date on which consolidation is initiated.~~

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No A special account in the general fund of a municipality established to provide special preexisting benefit plan coverage ~~as provided in under~~ this subdivision ~~shall be deemed to be is~~ not a supplemental pension plan under section 356.24 or a local governmental pension plan or fund under section 356.25.

Sec. 32. Minnesota Statutes 1990, section 353A.08, is amended by adding a subdivision to read:

**Subd. 6a. MILITARY SERVICE CONTRIBUTION AND REFUND.** A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, and who was otherwise eligible for automatic service credit for military service under sections 423.57 and 424.23, and who has not elected the type of benefit coverage provided by the public employees police and fire fund at the time of consolidation, must make employee contributions under section 353.01, subdivision 16, paragraph (h), to receive allowable service credit from the association for a military service leave after the effective date of the consolidation. A person who later elects, under subdivision 3, to retain benefit coverage under the bylaws of the local relief association is eligible for a refund from the association at the time of retirement. The association shall refund the employee contributions plus interest at the rate of six percent, compounded quarterly, from the date on which contributions were made until the first day of the month in which the refund is paid. The employer shall receive a refund of the employer contributions. The association shall not pay a refund to a person who later elects, under subdivision 3, the type of benefit coverage provided by the public employees police and fire fund or to the person's employer.

Sec. 33. Minnesota Statutes 1990, section 353A.09, subdivision 1, is amended to read:

**Subdivision 1. ESTABLISHMENT OF SPECIAL LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNTS.** The board of trustees of the public employees retirement association shall establish a separate ~~special accounts to be known as the consolidation account for each~~ local relief association consolidation account of each a municipality that consolidates with the ~~fund public employees retirement association. In that account shall be credited~~ The association shall credit to the consolidation account the assets of the individual consolidating local relief association upon transfer, member contributions received after consolidation under subdivision 4, municipal contributions received after consolidation under subdivision 5, and a proportionate share of any investment income earned after consolidation ~~by the public employees police and fire fund. From that individual the consolidation account, the association shall pay for~~ the transfer of any required reserves to the Minnesota postretirement investment fund on account of persons electing the type of benefit coverage provided by the public employees police and fire ~~benefit plan fund~~ under subdivisions 2 and 3 and section 353.271, subdivision 2, ~~shall be made;~~ the pension and benefit amounts on account of persons electing coverage by the relief association benefit plan under section 353A.08 ~~shall be paid,~~ the benefit

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amounts not payable from the Minnesota postretirement investment fund on account of persons electing the type of benefit coverage provided by the public employees police and fire ~~benefit plan fund~~ under section 353A.08 ~~shall be paid~~, and any direct administrative expenses related to the ~~special consolidation~~ account, and the proportional share of the general administrative expenses of the ~~fund shall be paid~~ association.

Except as otherwise provided for in this section, the liabilities and the assets of ~~each local relief association~~ a consolidation account must be considered for all purposes to be separate from the balance of the public employees police and fire fund ~~and shall~~. The consolidation account must be subject to separate accounting ~~and~~, a separate actuarial valuation, and must be reported as a separate exhibit in any annual financial report or actuarial valuation report of the public employees police and fire consolidation fund, whichever applies. The executive director of the public employees retirement association shall maintain separate accounting records and balances for each ~~consolidating local relief association and the balance in its consolidation~~ consolidation account.

Sec. 34. Minnesota Statutes 1990, section 353A.10, subdivision 4, is amended to read:

Subd. 4. **REFUND OF CERTAIN MEMBER CONTRIBUTION AMOUNTS.** (a) The following persons ~~shall be~~ are entitled to receive a refund of certain member contribution amounts under paragraph (b):

(1) ~~Any~~ A person who was an active member of a local police or firefighters relief association upon its consolidation with the ~~fund~~ public employees retirement association, who does not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who ~~commences~~ begins receipt of a service pension or a disability benefit from the ~~local relief association~~ consolidation account; or

(2) ~~Any~~ A person who is the surviving spouse, or if none, the surviving minor child, or if none, the designated beneficiary of a person who was an active member of a local police or firefighters relief association upon its consolidation with the fund, who did not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who dies prior to receiving a service pension or a disability benefit from the ~~local relief association~~ consolidation account.

(b) The refund of certain member contribution amounts ~~shall be~~ is the amount by which any member contributions made to the ~~local relief association~~ consolidation account under section 353A.09, subdivision 4, exceeds the amount of employee or member contributions which would have been payable to the local relief association as provided in the benefit plan in effect on the effective date of consolidation, plus interest at the rate of six percent, compounded quarterly, from the date on which the contribution was made until the ~~date on~~ first of the month in which the refund is paid.

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(c) ~~Any~~ A refund of certain contribution amounts ~~shall~~ must occur as soon as practicable following receipt of a valid application from the appropriate person and the commencement of receipt of the service pension or disability benefit or official notification of death, whichever applies.

Sec. 35. Minnesota Statutes 1990, section 353A.10, is amended by adding a subdivision to read:

Subd. 6a. DISSOLUTION OF CONSOLIDATION ACCOUNT. If a consolidation account no longer has current or potential future liabilities for the payment of annuities, benefits, refunds, or administrative expenses, the association shall transfer the remaining net assets, if any, for police and fire purposes only, to the municipality that made contributions to the account.

Sec. 36. Minnesota Statutes 1991 Supplement, 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 defined contribution plan is open to:

(1) an elected local government official of a governmental subdivision who elects to participate in the plan and who, for the elected service rendered to a governmental subdivision, is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7; ~~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;~~

(2) ~~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; and

(3) a person who qualifies to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031.

(b) For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Service as an elected local government official only includes service for the governmental subdivision for which the official was elected by the public-at-large. Service as an elected local government official ceases and eligibility to participate terminates when the person ceases to be an elected official. An 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

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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 public employees defined contribution plan.

(d) A former participant is a person who has ceased to be an elected local government official or an emergency medical service employee and who has not withdrawn the value of an individual account.

Sec. 37. Minnesota Statutes 1991 Supplement, section 353D.02, is amended to read:

#### 353D.02 ELECTION OF COVERAGE.

(a) Elected local government officials eligible under section 353D.01, subdivision 2, paragraph (a), clause (1), may elect to participate in the defined contribution plan after being elected or appointed to a elective public office by filing a membership application 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 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) For personnel eligible under section 353D.01, subdivision 2, paragraph (a), clause (2), a public ambulance service or privately operated ambulance service with eligible personnel 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.

(c) A person eligible under section 353D.01, subdivision 2, paragraph (a), clause (3), may elect to participate in the plan. The person must elect to participate or decline to participate by June 30, 1994, or by June 30 of the fiscal year after June 30, 1994, which the person first becomes qualified to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031.

Sec. 38. Minnesota Statutes 1991 Supplement, section 353D.03, is amended to read:

#### 353D.03 FUNDING OF PLAN.

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

(a) An elected local government official eligible under section 353D.01, subdivision 2, paragraph (a), clause (1), who elects to participate in the public employees defined contribution plan shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10. A participating elected local government official's governmental subdivision shall contribute a matching amount.

(b) A public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate in the plan shall fund benefits for its personnel eligible under section 353D.01, subdivision 2, paragraph (a), clause (2), who individually elect to participate; ~~except that~~ Personnel who are paid for their services may elect to make member contributions in an amount not to exceed the service's contribution on their behalf. Ambulance service contributions on behalf of salaried employees must be a fixed percentage of salary. An ambulance service making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions. An ambulance service with personnel for whom funding is provided under the paragraph that has ambulance attendants, ambulance drivers, and ambulance service medical directors qualified to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031 may discontinue that funding if the ambulance service has given its participating personnel at least 18 months notice of its intent to discontinue its funding of the plan.

(c) Former participants in the defined contribution plan under this chapter shall not contribute to the plan except under section 353D.12.

Sec. 39. Minnesota Statutes 1991 Supplement, section 353D.04, subdivision 1, is amended to read:

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 and credited to the individual account established for the ~~participating officer~~ participant.

(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.

Sec. 40. Minnesota Statutes 1991 Supplement, section 353D.05, subdivision 2, is amended to read:

Subd. 2. **INVESTMENT OPTIONS.** (a) 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

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of those accounts by specifying the percentage of the total contributions and ambulance service personnel incentive allocation to be used to purchase shares in each of the accounts.

(b) A participant or a former participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant or former participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment ~~fund account~~ or funds accounts specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant ~~exceed~~ exceeds 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 of the month following the date of receipt of the signed written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's or former 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. Upon expiration of a guaranteed investment contract, the participant's or former 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) 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. 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 the first of the month following the date of receipt of a signed written choice of options.

(e) The change or selection of an investment option or the transfer of all or a portion of the deceased or former participant's shares in the income share, growth share, common stock index, bond market, money market, or guaranteed investment accounts must not be made following death of the participant or former participant.

Sec. 41. Minnesota Statutes 1991 Supplement, section 353D.05, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATIVE EXPENSES.** The public employees retirement association may deduct an amount to defray the expenses of the associa-

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tion in administering the plan. The amount must be set annually by the executive director of the association, ~~but not to exceed two percent of the total amount of the employing unit contributions to the plan and the ambulance service personnel incentive allocation received by the plan and~~ and if the amount recovered under section 11A.17 does not meet the annual expenses of administering the plan, the association may assess an additional amount up to three percent of the employer and employee contributions.

Sec. 42. Minnesota Statutes 1991 Supplement, section 353D.07, subdivision 2, is amended to read:

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. 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. 43. Minnesota Statutes 1991 Supplement, 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~~ withdrawal. As an alternative to a lump-sum distribution, the participant may choose to have the association transfer the total account value for the purchase of an annuity payable at a designated age to an insurance company of the participant's choice that is licensed to do business in the state.

Sec. 44. Minnesota Statutes 1991 Supplement, 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 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. An elected local government official may make contributions for prior elected service to the defined contribution plan even if eligibility criteria for the defined benefit plan under chapter 353 were not met at the time service was rendered. The association shall not accept contributions for prior elected service ~~after the elected official ceases to hold elected office from a former elected official after the end of the tax year in which the elected official ceases to hold office.~~ Employer contributions on behalf of the former elected official must be made to the association no later than 30 days after April 15 following the end of the tax year under section

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415 of the federal Internal Revenue Code, as amended. Employee contributions must be made to the association no later than 30 days after the close of the limitation year under section 415 of the federal Internal Revenue Code, as amended.

Sec. 45. Minnesota Statutes 1990, section 356.30, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY; COMPUTATION OF ANNUITY.** (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause (2) may elect to receive a retirement annuity from each fund in which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement, ~~in lieu of any augmentation of deferred annuities provided by laws governing the funds enumerated in subdivision 3;~~ a retirement annuity from each fund in which the person has at least six months allowable service, and augmentation of a deferred annuity calculated under the laws governing each public pension plan or fund named in subdivision 3, from the date the person terminated all public service if:

(a) the person has allowable service totaling an amount that allows the person to receive an annuity in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within a six-month period.

(3) The retirement annuity from each fund ~~shall~~ must be based upon the allowable service in each fund, except that:

(a) The laws governing annuities ~~shall~~ must be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund ~~shall~~ must be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds ~~shall~~ must be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

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(e) The benefit amount payable for any allowable service under a nonformula plan of a covered fund ~~shall~~ must not be affected but such service and covered salary ~~shall~~ must be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund ~~shall in no event~~ must not exceed 2-1/2 percent per year of service for any year of service or fraction thereof.

(h) Any period of time for which a person has credit in more than one of the covered funds ~~shall~~ must be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit ~~shall~~ must be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

Sec. 46. Minnesota Statutes 1990, section 356.302, subdivision 6, is amended to read:

Subd. 6. **COMBINED SERVICE DISABILITY BENEFIT COMPUTATION.** (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the

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length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled as ~~provided in~~ under section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

Sec. 47. Minnesota Statutes 1990, section 356.303, subdivision 3, is amended to read:

Subd. 3. **COMBINED SERVICE SURVIVOR BENEFIT COMPUTATION.** (a) The combined service survivor annuity or survivor benefit from each covered retirement plan must be based on the allowable service in each covered retirement plan, except as provided by paragraphs (b) to (f).

(b) The survivor annuity or survivor benefit must be governed by the law in effect for each covered retirement plan on the date of death of the deceased member.

(c) All plans must base the survivor annuity or survivor benefit on the same average salary.

(d) If the method of the covered retirement plan used to compute a survivor benefit or annuity varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a survivor benefit or annuity does not vary based on the length of allowable service credit, the portion of the specified benefit or annuity amount from the plan must bear the same proportion to the total specified benefit or annuity amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the survivor

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benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service survivor annuity or survivor benefit. A period of duplicated service credit must be handled as provided in section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from a public pension plan named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

Sec. 48. Laws 1990, chapter 570, article 8, section 14, subdivision 1, as amended by Laws 1991, chapter 29, section 1, subdivision 1, is amended to read:

Subdivision 1. **ENTITLEMENT.** An individual who became an appointed public officer prior to May 9, 1990, or 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 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. An appointed public officer is a person who holds an appointed position that was previously an elected position during the person's incumbency.

Sec. 49. Laws 1991, chapter 269, article 2, section 13, is amended to read:

**Sec. 13. EFFECTIVE DATE.**

(a) Sections 1 to 11 are effective the day following final enactment.

Section 12 is effective for the former relief associations of the city of Chisholm the day following approval by the Chisholm city council and upon compliance with Minnesota Statutes, section 645.021. Section 12 is effective for the former relief associations of the city of Hibbing the day following approval by the Hibbing city council and upon compliance with Minnesota Statutes, section 645.021.

(b) The elimination of the surviving spouse benefit discontinuation requirement provided for in sections 1 to 11 also applies to any surviving spouse receiving a surviving spouse benefit on the date of final enactment of the act ~~and~~, to the potential surviving spouses of active, deferred or retired plan members

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who have that status on the effective date of the change. ~~Sections 1 to 11 do not apply to, and to~~ persons who formerly were receiving surviving spouse benefits and had those benefits discontinued by virtue of a remarriage ~~and may not be considered to.~~ Sections 1 to 11 do not authorize the payment of any retroactive survivor benefit amounts to any person or to an estate, except that a person who was formerly receiving surviving spouse benefits and who had those benefits discontinued by virtue of remarriage prior to July 1, 1991, is eligible to receive benefit amount payments retroactive to July 1, 1991, or 12 months prior to the month in which application for benefits is received in the office of the association, whichever is sooner.

**Sec. 50. [353.011] BOARD OF TRUSTEE TERMS.**

Notwithstanding section 353.03, in January 1993, the governor shall appoint two persons to the board of trustees of the public employees retirement association to one-year terms expiring in January 1994, one person to a three-year term expiring in January 1996, and two persons to four-year terms expiring in January 1997. Thereafter, persons appointed to the board of trustees serve four-year terms under section 353.03, subdivision 1.

**Sec. 51. REPEALER.**

Minnesota Statutes 1990, sections 353.656, subdivision 7, and 353.71, subdivision 3, are repealed.

**Sec. 52. EFFECTIVE DATE.**

Sections 1 to 5 and 7 to 48, 50, and 51 are effective the day following final enactment. Section 6 is effective January 1, 1993. Section 49 is effective July 1, 1992.

Presented to the governor April 6, 1992

Signed by the governor April 9, 1992, 4:25 p.m.

**CHAPTER 433—H.F.No. 1827**

*An act relating to livestock diseases; modifying requirements for certain tests; amending Minnesota Statutes 1990, sections 35.245, subdivisions 1 and 2; and 35.251; proposing coding for new law in Minnesota Statutes, chapter 35; repealing Minnesota Statutes 1990, section 35.245, subdivision 1a.*

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

**Section 1. [35.243] RULES FOR CONTROL OF BRUCELLOSIS IN CATTLE.**

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