

CHAPTER 352

STATE EMPLOYEES RETIREMENT ASSOCIATION

352.01 DEFINITIONS.

HISTORY. 1929 c. 191 s. 1; 1931 c. 351 s. 1; 1933 c. 326 s. 1; 1935 c. 238 s. 1; 1939 c. 432 s. 1; M. Supp. s. 254-1; 1941 c. 391 s. 1; 1943 c. 622 s. 1; 1945 c. 38 s. 1; 1945 c. 38 s. 1; 1945 c. 284 ss. 1, 2.

Officers and servants of the Minneapolis-St. Paul Sanitary District are not state employees within the terms of Laws 1929, Chapter 191, as amended, creating the state employees retirement association. State ex rel v King, 193 M 405, 258 NW 583.

Laws 1929, Chapter 191, is constitutional. Hessian v Erwin, 204 M 287, 283 NW 404.

The beneficiary has no vested right in a pension granted by government except as payments become due him absolutely under terms of statute. Any subsequent legislature has the power to alter or modify the terms of payment as deemed proper. Hessian v Erwin, 204 M 287, 283 NW 404; Johnson v State Employees Assn., 208 M 111, 292 NW 767.

A member of the retirement fund association not yet entitled to any payments from the fund, is without judicial remedy for actuarial deficiencies which threaten the solvency of the fund. Hessian v Erwin, 204 M 287, 283 NW 404.

Persons entering employment of state department of education since July 1, 1929, must become members of either the teachers retirement fund or state employees retirement association, and such employees as would come within the terms of both bodies must become members of both. 1936 OAG 201, Oct.-8, 1935 (175p).

Special examiners of the state insurance department are not state employees and do not come within the retirement act unless they are employed continuously for a period of six months or more. OAG Sept. 7, 1935 (331a-8).

Employees engaged in public health service, although paid out of federal funds allocated to the state, are state employees. OAG May 19, 1936 (331a-7).

Whether or not a person is entitled to receive credit for services during a period when only employed intermittently, should be determined by his status rather than from the extent of activities. OAG April 22, 1937 (331a-6).

Employee of an employment service and unemployment compensation division of industrial commission, employees of old age assistance division, and employees of State-wide highway planning service are state employees. OAG March 10, 1938 (331a-6).

Members of the board of parole are not state employees. OAG July 24, 1939 (331a-6).

An officer of the state board of hairdressers and beauty culture examiners is not a state employee. OAG Sept. 1, 1939 (331a-7).

Members of the barber board are not state employees. The secretary of the board is a state employee. OAG Sept. 16, 1939 (331a-7).

Employees of St. Paul metropolitan airports commission, state legislature, Minnesota historical society, and similar are not under state employees retirement act. OAG Jan. 8, 1944 (331a-7); OAG March 1, 1944 (331a-1); OAG May 26, 1944 (230); OAG May 6, 1944 (331a-7).

Vested interest of a government employee in a pension fund. 23 MLR 540.

352.015 MEMBERSHIP.

HISTORY. 1945 c. 284 s. 2.

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HISTORY. 1929 c. 191 s. 2; 1931 c. 191 s. 2; 1933 c. 326 s. 2; 1935 c. 238 s. 2; M. Supp. s. 254-2; 1941 c. 391 s. 2; 1943 c. 622 s. 2; 1945 c. 284 ss. 3, 4.

An elective state officer may elect to become a member at any time, and membership voluntarily accepted may not be terminated except as specifically provided in the act. OAG June 17, 1937 (331a-14).

Employees in dormitories of the Mankato state teachers college must become members of state employees retirement assn. OAG Dec. 28, 1933.

352.03 BOARD OF MANAGERS; OFFICERS.

HISTORY. 1929 c. 191 s. 3; 1931 c. 351 s. 3; 1935 c. 238 s. 3; M. Supp. s. 254-3; 1941 c. 391 s. 3.

The compensation of secretary and to the employees is fixed by the governing board of retirement association. OAG Feb. 25, 1935 (331e).

It is within the discretion of the board to determine what business shall be transacted at the annual meeting, and what matters the membership shall be allowed to vote on. OAG July 19, 1935 (331a-2).

352.04 PAYMENTS INTO RETIREMENT FUND.

HISTORY. 1929 c. 191 s. 4; 1931 c. 351 s. 4; 1933 c. 326 s. 4; 1935 c. 238 s. 4; 1939 c. 422 s. 2; M. Supp. s. 254-4; 1941 c. 391 s. 4; 1943 c. 622 s. 3; 1945 c. 284 ss. 5, 6, 7; 1945 c. 603 s. 1.

Payments into the retirement funds do not constitute a tax. The payments are the proceedings of taxes allocated by law to a special fund. *Hessian v Erwin*, 204 M 289, 283 NW 404.

The board was given no power to fix the amount of the unaccrued monthly pension or annuity, on retirement of a member, other than fixed by statute in force when payable. *Johnson v State Employees Assn.*, 208 M 113, 292 NW 767.

..... A. 1939 amendment requires employees upon their return to service to make up payments that were lost during absence from service; and where they have failed to do this they should, on and thereafter July 1, 1939, pay into the retirement fund according to their age upon last return to service. OAG June 16, 1939 (331a-9).

Employee granted leave to engage in war work must keep up his payments into the fund. OAG Jan. 20, 1944 (331a-9).

352.05 STATE TREASURER TO BE TREASURER OF ASSOCIATION.

HISTORY. 1929 c. 191 s. 5; 1931 c. 351 s. 5; 1935 c. 238 s. 5; M. Supp. s. 254-5; 1941 c. 391 s. 5; 1945 c. 284 s. 8.

352.06 INVESTMENT BOARD TO INVEST FUNDS.

HISTORY. 1929 c. 191 s. 6; 1931 c. 351 s. 6; 1935 c. 238 s. 6; M. Supp. s. 254-6; 1941 c. 391 s. 6.

The state board of investment has no power to sell or accept payments before maturity of bonds held in the state employees retirement fund except upon request of retirement board. OAG May 11, 1937 (928b-5).

352.07 CIVIL SERVICE DEPARTMENT TO FURNISH INFORMATION AS TO STATUS.

HISTORY. 1929 c. 191 s. 7; 1931 c. 351 s. 7; M. Supp. s. 254-7; 1941 c. 391 s. 7.

352.08 LEGAL ADVISER.

HISTORY. 1929 c. 191 s. 8; M. Supp. s. 254-8.

352.09 AMOUNT PAID REFUNDED IN CERTAIN CASES.

HISTORY. 1929 c. 191 s. 9; 1931 c. 351 s. 8; 1933 c. 326 s. 5; 1935 c. 238 s. 7; 1939 c. 432 s. 3; M. Supp. s. 254-9; 1941 c. 391 s. 8; 1945 c. 284 s. 9.

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The provision in the law that the monthly annuity may not be paid unless the condition of the retirement fund permits indicates no absolute contract obligation. The whole set-up is statutory and a statute may be repealed or altered as legislature deems just and proper. *Hessian v Erwin*, 204 M 287, 283 NW 404; *Johnson v State Employees Assn.*, 208 M 111, 292 NW 767.

There is an implied right on part of an appointive state employee who becomes an elective state officer to receive a refund on his payments when as such elective officer he exercises his right not to remain a member of the association. OAG June 17, 1937 (331a-14).

Where employee discontinued his employment and made application for refund, but died before receiving the money, the refund should be paid to his designated beneficiary. OAG June 5, 1939 (331a-11).

Upon termination of state employment, member may not thereafter pay into the fund. OAG June 6, 1939 (331a-9).

352.103 EX-MEMBER RETURNING TO STATE EMPLOYMENT.

HISTORY. 1945 c. 284 s. 10.

352.11 RETIREMENT ANNUITY.

HISTORY. 1929 c. 191 s. 11; 1931 c. 351 s. 10; 1933 c. 326 s. 7; 1935 c. 238 s. 9; 1939 c. 432 s. 5; M. Supp. s. 254-11; 1941 c. 391 s. 10; 1945 c. 38 s. 2.

It is optional for a game warden who has reached retirement age to accept such retirement payments on account of his having reached age limit, but he should not be required to retire if department deems his service necessary. OAG Aug. 29, 1937 (983o).

Annuities cannot be paid in whole or in part unless monthly salary deductions are greater than the sum of refundments plus annuities. OAG Feb. 3, 1939 (331a-1).

Proportional deferred annuities are compounded on 50 per cent of average salary upon which deductions for retirement have been based during employment and the \$100.00 limit is merely a maximum. OAG July 28, 1939 (331a-1).

An employee injured, and later retired for age may at the same time receive his annuity payments and his workmen's compensation allowance. OAG May 16, 1944 (331a-1).

Credit for time in military service. OAG July 11, 1944 (331a-9); OAG Nov. 29, 1944 (331a-9).

352.12 SURVIVING SPOUSE OR LEGAL REPRESENTATIVE OF DECEASED MEMBER TO RECEIVE LUMP SUM.

HISTORY. 1929 c. 191 s. 14; 1933 c. 326 s. 1; 1935 c. 238 s. 12; M. Supp. s. 254-12; 1941 c. 391 s. 11.

Contract rights referred to in this section are limited to the right to receive back from the association salary deductions, and do not extend to annuities. OAG Feb. 3, 1939 (331a-11).

352.13 ANNUITIES PAID IN MONTHLY INSTALMENTS.

HISTORY. 1929 c. 191 s. 15; 1931 c. 351 s. 1; 1933 c. 326 s. 1; 1935 c. 238 s. 13; M. Supp. s. 254-13 1941 c. 391 s. 12.

352.14 DATE OF RETIREMENT.

HISTORY. 1929 c. 191 s. 16; 1931 c. 351 s. 1; 1933 c. 326 s. 1; 1935 c. 238 s. 14; M. Supp. s. 254-16; 1941 c. 391 s. 13.

352.15 FUNDS NOT SUBJECT TO PROCESS.

HISTORY. 1929 c. 191 s. 17; 1931 c. 351 s. 1; 1933 c. 326; 1935 c. 238 s. 15; M. Supp. s. 254-17; 1941 c. 391 s. 14.

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352.16 INSURANCE LAWS NOT TO APPLY.

HISTORY. 1929 c. 191 s. 18; 1933 c. 326; 1935 c. 238 s. 16; M. Supp. s. 254-18; 1941 c. 391 s. 15.

352.17 MAY RECEIVE GIFTS AND BEQUESTS.

HISTORY. 1929 c. 191 s. 19; 1933 c. 326; 1935 c. 238 s. 17; 1939 c. 432 s. 6; M. Supp. s. 254-19; 1941 c. 391 s. 16.

352.18 RULES AND REGULATIONS.

HISTORY. 1929 c. 191 s. 22; 1933 c. 326; 1935 c. 238 s. 20; M. Supp. s. 254-22; 1941 c. 391 s. 18.

Restrictions against increase or decrease of annuities did not mean that the act could not be amended by subsequent legislatures so as to increase or decrease the annuities. OAG May 4, 1939 (331a-1).