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PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.01

CHAPTER 353

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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353.01. DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Public employee.** (1) "Public employee" means any person performing personal services as an elected or appointed officer or employee for a governmental subdivision or for an elected officer thereof and whose salary is paid, in whole or in part, from revenue derived from taxation, or by fees, assessments, or from other sources. The term "public employee" also means any person serving as an elected member of the legislature of the state of Minnesota, the secretary of the senate and the chief clerk of the house of representatives, or any person appointed as a district court reporter in this state and any officer or employee of the public employees retirement association, or any employee of the league of Minnesota municipalities.

(2) "Public employee" does not mean

(a) persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(b) election officers;

(c) persons engaged in public work for the governmental subdivision but employed by contractors where the performance of such contract is authorized by competent authority;

(d) patient and inmate help in governmental subdivision charitable, penal and correctional institutions;

(e) members of boards, commissions, volunteer fire departments, bands and others who serve the governmental subdivision intermittently and are paid on a per diem, per meeting or per fire basis;

(f) temporary, emergency and seasonal employees as defined by rules prescribed by the board of trustees;

(g) public employees who by virtue of their employment are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision;

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

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Subd. 3. **Head of department.** "Head of department" means the head of any department, institution, office, or branch of service of any governmental subdivision which directly pays salaries out of its revenue or is empowered to authorize the payment of such salaries.

Subd. 4. **Accumulated deductions.** "Accumulated deductions" means the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his individual account in the retirement fund including also payments made by a member pursuant to the provisions of Laws 1937, Chapter 466, Section 2; Laws 1947, Chapter 18, Section 2, or any rules made by the board of trustees pursuant thereto, without interest.

Subd. 5. **The retirement fund.** "The retirement fund" means the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other moneys paid into the state treasury or received by the board of trustees pursuant to the provisions of this chapter, together with all income and profits therefrom and interest thereon.

Subd. 6. **Governmental subdivision.** "Governmental subdivision" means a county, city, village, borough, town, school district within this state, or a department or unit of state government or any other public body employing any person who is a public employee by virtue of specific authorization made in section 353.01, subdivision 2, but does not mean any municipal housing and redevelopment authority organized under the provisions of Minnesota Statutes, Sections 462.415 to 462.711; or any port authority organized pursuant to Minnesota Statutes, Chapter 458; or any soil conservation district organized pursuant to Minnesota Statutes, Chapter 40; or any hospital district organized or reorganized pursuant to legislation enacted by the 1959 Legislature.

Subd. 7. **Member.** "Member" means a member of the public employees retirement association and "membership" therein is limited to persons who are engaged in performing services as a public employee but also includes periods when such person is on a leave of absence of less than six months, a temporary lay off of less than six months, an authorized sick leave or an authorized leave for job training.

Subd. 8. [Repealed, 1957 c 935 s 27]

Subd. 9. [Repealed, 1957 c 935 s 27]

Subd. 10. **Salary.** "Salary" means the periodical compensation of any public employee and also means "wages" and includes "fees".

Subd. 11. **Public service.** "Public service" means service as an officer or employee of the state or of a governmental subdivision.

Subd. 12. [Repealed, 1953 c 78 s 18]

Subd. 13. **Year of contribution.** "Year of contribution" means any 12 calendar months of public service during or for which a member makes payment into the retirement fund through salary deductions or assessments, or through payments made under Minnesota Statutes 1953, Section 353.11, Subdivisions 2 or 3, as amended by Laws 1955, Chapter 815, and Sections 353.35, 353.36, 353.39.

Subd. 14. **Actuarial equivalent.** "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 15. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member under the age of 18, unmarried and actually dependent for more than one half of his support upon such member at the time of death and for not less than ninety days prior thereto. It also includes any child of the member conceived during his lifetime and born after his death in any case where a member died after July 1, 1957.

Subd. 16. **Allowable service.** "Allowable service" means:

(1) Any service rendered by a public employee for which on or before June 30, 1958, he received credit to his account in the retirement fund by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or

(2) Any service rendered by a public employee for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to section 353.36, or

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(3) Any service rendered by a public employee after July 1, 1957, for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or

(4) Any service rendered by a person after July 1, 1957, for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund, as provided in sections 353.35, 353.39, and Minnesota Statutes 1957, Section 353.26, Subdivision 4.

(5) Any service rendered by a public employee for which he elected to obtain credit for service by making payments to the fund pursuant to sections 353.35, 353.36, and Minnesota Statutes 1957, Section 353.26, Subdivision 4.

(6) Both service during years of actual membership in the course of which contributions were currently made and service in years during which the public employee was not a member but for which he later elected to obtain credit for, making payments to the fund as permitted by any law then in effect.

Subd. 17. **Approved actuary.** "Approved actuary" means any actuary who is a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds or any firm retaining such an actuary on its staff.

Subd. 18. **Year of allowable service.** "Year of allowable service" means any 12 calendar months not necessarily consecutive in which a public employee received compensation from the government subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year. It also means any 12 months in which a member maintains his status as a public employee. For the purposes of this section, a member who is subject to seasonal layoffs or who is on leave of absence authorized by his employer, for a period not to exceed one year, is deemed to have maintained his status as a public employee.

Subd. 19. **Total and permanent disability.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration.

Subd. 20. **Dependent spouse.** "Dependent spouse" means: (1) The unmarried widow of a deceased member, or (2) the widower of a deceased member who has attained the age of 65, has not remarried, was living with and dependent upon the member at the time of death for more than one-half of his support; or the widower of a deceased member who has not remarried and is totally and permanently disabled.

Subd. 21. **Fire fighter.** "Fire fighter" means any person who is regularly employed by a governmental subdivision serving on active duty with a designated fire company or having charge of one or more of the companies and engaged in the hazards of fire fighting.

Subd. 22. **Police officer.** "Police officer" means any person who is regularly employed by a governmental subdivision serving on active duty with a designated police department or sheriff's office or having charge of a police department or sheriff's office engaged in the hazards of protecting the safety and property of others and having the power to arrest by warrant.

Subd. 23. **Retirement annuity.** "Retirement annuity" means the pension paid or payable by the fund to a former member after retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

Subd. 24. **Optional survivors annuity.** "Optional survivors annuity" means the allowance paid or payable by the fund to a survivor of a former member pursuant to an optional annuity form selected by such member at or before retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

Subd. 25. **Spouse's annuity.** "Spouse's annuity" means the allowance paid or payable by the fund to a spouse of a deceased member commencing at age 62 or 65 which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

Subd. 26. **Annuity.** "Annuity" means a retirement annuity, optional survivors annuity, or spouse's annuity.

Subd. 27. **Benefit.** "Benefit" means an allowance paid or payable by the fund to a surviving dependent spouse or a dependent child which is a fixed amount and

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also includes an allowance paid or payable by the fund to a member or former member who is permanently and totally disabled.

Subd. 28. **Retirement.** "Retirement" means the withdrawal of a member from active public service who is paid a retirement annuity thereafter and commences with the date designated by the board of trustees when the retirement annuity shall first accrue to the former member after his withdrawal from active public service. This date shall determine any rights specified in this chapter which occur either before or after retirement, as the case may be.

Subd. 29. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member to receive the balance of his accumulated deductions after death. If the member had failed to designate such a person or if the person designated predeceased the member, beneficiary in such cases means the estate of the deceased member.

[1931 c 307 s 1; 1933 c 374 s 1; 1937 c 466 s 1; 1941 c 285 s 1; 1945 c 78 s 1; 1947 c 18 s 1; 1949 c 84 s 1; 1951 c 22 s 1-8; 1953 c 78 s 1; 1955 c 815 s 11; 1957 c 815 s 1; 1957 c 935 s 1-5; 1959 c 650 s 1-7, 39, 43, 58; 1961 c 482 s 1; 1961 c 595 s 1; 1961 c 746 s 1] (254-23)

353.02 [Repealed, 1957 c 935 s 27]

353.03 **BOARD OF TRUSTEES.** Subdivision 1. **Management.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 12 members, who shall be known as the board of trustees. This board shall consist of the state auditor, the state insurance commissioner, the state treasurer, and nine other trustees who shall be elected from the membership by the members of the retirement association at a time and in a manner to be fixed by the board. Members of the board so elected shall hold office for a term of three years and until their successors are elected and qualified. Present members of the board of trustees shall serve for the terms for which they were elected. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivision which aid in financing it and the public employees who are its beneficiaries.

Subd. 2. **No compensation expenses.** The members of the board of trustees and members of any authorized committee of said retirement association shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on the board or on any authorized committee of said retirement association.

Subd. 3. **Officers.** The board shall elect a chairman and appoint a secretary and such other employees as may be necessary and fix their compensation. The board shall from time to time, subject to the limitations of this chapter and of the law, establish rules and regulations for the administration of the retirement and other provisions of this chapter and for the transaction of its business.

Subd. 4. **Offices.** The legal custodian of public buildings within the state shall as soon as practicable make provision for suitable office space in the state capitol or other state office buildings for the use of the board of trustees and its secretary.

[1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16; 1959 c 650 s 8, 58] (254-25)

353.04 [Repealed, 1957 c 935 s 27]

353.05 **CUSTODIAN OF FUNDS.** The state treasurer shall be ex officio treasurer of the retirement funds of the association and his general bond to the state shall be so conditioned as to cover all liability for his acts as treasurer of these funds. If the general bond of the state treasurer, at the time of the passage of this chapter, shall cover all liability for his acts as treasurer of these funds, no additional bond shall be required; if not, the state treasurer shall execute to the State of Minnesota, for the use and benefit of the state and all persons injured by failure to observe its conditions, a penal bond in such a sum as may be fixed by the board of trustees and with such sureties as the governor and the state auditor may approve, conditioned that he will pay over to all persons on demand all moneys to which they may be entitled which may have come into his hands in virtue or by reason of his office as such treasurer of these funds. All moneys of the association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall transmit monthly to the secretary of the board of trustees a detailed statement of all amount so received and credited by him to the fund. He shall pay out the fund only on warrants issued by the state auditor, upon

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vouchers signed by the secretary of the board of trustees; provided that vouchers for investment may be signed by the secretary of the state board of investment.

[1931 c 307 s 5; 1959 c 650 s 58] (254-27)

353.06 INVESTMENT OF FUNDS. The board of trustees shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest and reinvest the sum so certified in such securities as are duly authorized as legal investments for state employees retirement fund and shall have authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. All of the restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the purchase and sale of securities for the public employees' retirement fund.

[1931 c 307 s 6; 1959 c 650 s 58; 1961 c 380 s 5] (254-28)

353.07 MONTHLY STATEMENTS. Every head of a department in a governmental subdivision subject to the provisions of this chapter shall on the first day of each calendar month furnish the board of trustees with a statement for his department covering the preceding calendar month showing all new public employees, all removals, withdrawals, lay-offs and leaves of absence without pay affecting members during the same period.

[1931 c 307 s 7; 1933 c 374 s 1; 1941 c 285 s 4; 1947 c 18 s 3; 1951 c 22 s 18; 1959 c 650 s 58] (254-29)

353.08 ATTORNEY GENERAL TO BE LEGAL ADVISER. The attorney general shall be the legal adviser of the board of trustees. The board may sue or be sued in the name of the public employees' board of trustees of the public employees' retirement association and, in all actions brought by it or against it, the board shall be represented by the attorney general.

[1931 c 307 s 8; 1933 c 374 s 1; 1959 c 650 s 58] (254-30)

353.09 [Repealed, 1957 c 935 s 27]

353.10 [Repealed, 1957 c 935 s 27]

353.11 [Repealed, 1957 c 935 s 27]

353.12 [Repealed, 1957 c 935 s 27]

353.13 ANNUITIES; COMMENCEMENT AND PAYMENT. All retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and paid in equal monthly installments commencing one month thereafter and continuing only during the lifetime of the annuitant, and shall not be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive beyond the first day of the calendar month in which application therefor shall be filed.

[1931 c 307 s 15; 1933 c 374 s 1; 1941 c 285 s 7; 1951 c 22 s 25; 1959 c 650 s 9] (254-37)

353.14 [Repealed, 1951 c 22 s 30]

353.15 ANNUITIES EXEMPT FROM PROCESS. No money, annuity, or benefit provided for in this chapter is assignable or subject to execution, levy, attachment, garnishment, or legal process, or to any state income tax or state inheritance tax.

[1931 c 307 s 18; 1955 c 815 s 9] (254-40)

353.16 AUDIT OF BOOKS AND ACCOUNTS; INSURANCE LAWS NOT APPLICABLE. None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. The books and accounts of the association and the retirement fund shall be examined and audited annually, if funds and personnel permit, by the public examiner of the state and a full and detailed report thereof made to the board of trustees. The cost of such examination shall be paid by the retirement association in accordance with the provisions of Minnesota Statutes 1957, Section 16.20, Subdivision 9. For the purposes of this section the public employees retirement association shall be considered a board as referred to in subdivision 9.

[1931 c 307 s 19; 1933 c 374 s 1; 1959 c 645 s 1; 1959 c 650 s 58] (254-41)

353.17 MONEYS CREDITED TO RETIREMENT FUND. The board of trustees is hereby authorized and empowered to credit to the fund any moneys received in

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the form of contributions, donations, gifts, appropriations, bequests, or otherwise, If a former public employee does not apply for refundment within five years after the last deduction was taken from his salary for the retirement fund, and the total amount of his accumulated deductions is not over \$25, such accumulated deductions shall be credited to and become a part of the retirement fund. Refundable accumulated deductions of any member, if unclaimed for a period of five years after separation from the public service, shall be credited to a donations suspense account. The board of trustees is authorized to pay refunds of accumulated deductions, without interest, from such donations suspense account, upon proper application therefor. After the refundable accumulated deductions of any former member have remained in such donations suspense account for a period of ten years, without application for a refund thereof having been made, they shall be transferred to and credited to the retirement fund proper. In the event the former public employee should return to public service, the amount so credited to the retirement fund shall be restored to his individual account.

[1931 c 307 s 20; 1937 c 466 s 6; 1951 c 22 s 26; 1959 c 650 s 44, 58] (254-42)

353.18 REGULATIONS. All matters and administrative details not specifically provided for in this chapter shall be governed by rules and regulations issued and promulgated by the board of trustees. The final power to determine the status of any individual in the employ of any governmental subdivision, for the purposes of this chapter, is hereby vested in the board.

[1931 c 307 s 22; 1941 c 285 s 9; 1959 c 650 s 58] (254-44)

353.19 PENALTIES FOR FALSE INFORMATION. Any person who shall give any false information to the board of trustees or any officer or agent of the retirement association for the purpose of obtaining membership in such association, or any person, who shall wilfully fail or refuse to perform or discharge any duty prescribed by this chapter, shall, upon conviction thereof, be guilty of a misdemeanor.

[1931 c 307 s 23; 1959 c 650 s 58] (254-45)

353.20 [Repealed, 1955 c. 815 s 12]

353.21 [Repealed, 1957 c. 935 s 27]

353.26 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION. Subdivision 1.

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The public employees retirement association created by Laws 1931, Chapter 307, as amended, is confirmed and continued. The membership in the association shall consist only of public employees. Any person who was a member of the association on June 30, 1957, shall continue his membership with the association.

Subd. 2. Every public employee not a member of the association on July 1, 1957, becomes a member by acceptance of public employment or continuance in public service. Acceptance of employment is deemed consent to have deductions made from salary for deposit to the credit of the member's account in the fund.

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Subd. 3. Any elected public officer or any person appointed to fill a vacancy in an elective office within any governmental subdivision shall have the right to exercise an option to become a member, but such option, once exercised, may not be withdrawn during the incumbency of such person in office. Such person may exercise this option by filing a request with the board of trustees.

Subd. 4. [Repealed, 1959 c 650 s 57]

[1957 c 935 s 6; 1959 c 650 s 10, 11, 40, 58]

353.27 PUBLIC EMPLOYEES RETIREMENT FUND. Subdivision 1. There is a special fund known as the "Public Employees Retirement Fund." In that fund there shall be deposited employee contributions, employers' contributions and other amounts authorized by law including amounts in the fund when Laws 1957, Chapter 935, takes effect. From this fund there is appropriated the payments authorized by this chapter in the amounts, in the manner and at such time, provided herein.

Subd. 2. The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. No deduction shall be made from any salary in excess of \$4,800 in any calendar year. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received limited to \$4,800 in any calendar year.

Subd. 3. The employer contribution to the fund shall be an amount equal to four percent of the salary of each member not exceeding \$4,800 in any calendar year for the period commencing July 1, 1956 to June 30, 1957, five percent for the

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following 12 month period and six percent thereafter. This contribution shall be made in the manner provided in section 353.28.

Subd. 4. The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted at least once each month from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries and to cause the same to be remitted within 15 days thereafter to the secretary of the board of trustees together with a statement showing the amount of each of such deductions, the amount of salaries from which such deductions have been made and the names of the public employees on whose accounts the same have been made. Such statement may be furnished in the form of a carbon or duplicate copy of departmental payroll abstracts and if not submitted in such form, the head of each department is hereby required to furnish the secretary of the board of trustees with a carbon or duplicate copy of his departmental payroll abstract for the first pay period during the months of January and July, respectively, in each year and it shall be the duty of said secretary to check the copies of all such payroll abstracts against the membership records so as to ascertain whether or not any omissions have been made by the several department heads in the reporting of any new public employees, as required by section 353.07. Upon notice from the secretary of omission of a deduction from the salary of a public employee, the head of the department shall deduct the amount of the omitted salary deduction from the next salary of the public employee and forthwith remit it to the secretary. All remittances so received by the secretary of the board of trustees shall be promptly deposited with the state treasurer. Deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed from the portion of his salary paid by such county.

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year commencing July 1, 1958, to June 30, 1959, and each year thereafter for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision in the manner provided in section 352.28. This subdivision takes effect July 1, 1959.

Subd. 6. All contributions shall be credited to a fund and all interest and other income of the association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities and other benefits herein provided shall be paid only from said fund.

Subd. 7. (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refundment of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution provided application for it is made on a form furnished by the board of trustees. The department's payments shall be refunded to the department if the amount of the required adjustment is more than \$1.

[1957 c 935 § 7; 1959 c 650 s 12, 37, 58; 1961 c 744 s 1; Ex:1961 c 50 s 1]

353.28 PAYMENT OF EMPLOYER CONTRIBUTIONS. Subdivision 1. Each governmental subdivision shall secure its employer contributions and its contributions to amortize the deficit in the retirement fund from the sources and by the means provided in this section. Each governmental subdivision shall pay these contributions to the retirement fund out of moneys collected from taxes or other revenue of the governmental subdivision as its obligation for all members employed by such subdivision and these contributions shall be charged as administrative costs.

Subd. 2. Not later than September 30 of each year beginning with 1957, the total amount due from each governmental subdivision shall be determined by the board of trustees and certified in duplicate by the secretary or an authorized officer of the board to each auditor of each county whose responsibility it is to furnish one copy to each governmental subdivision within the confines of his county. This

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certification covers a period of 12 months ending on June 30 immediately preceding.

Subd. 3. If the governmental subdivision fails to include the amount so certified in its levy for the year in which the certification is required to be made, the county auditor shall levy in that year upon all taxable property within the governmental subdivision a tax in the amount so certified, which is to be added to the levy of the governmental subdivision. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned. The proceeds of any taxes levied under this subdivision shall be remitted directly to the association.

Subd. 4. The association shall deposit these proceeds in the retirement fund to the credit of the governmental subdivision. When payments are to be made by a governmental subdivision from revenues other than revenues derived from taxes, the governmental subdivision shall notify the county auditor of that fact and the county auditor shall thereupon reduce the levy accordingly. For the express purposes of this section, the payment of all such contributory shares of retirement cost is hereby made an obligation of the governmental subdivision concerned in the proportion and to the extent provided.

Subd. 5. In the event any governmental subdivision fails or neglects to pay into the retirement fund in full the amount properly certified by the board, through failure to collect the full amount, the deficiency shall be added to the next levy made by the governmental subdivision but no interest shall accrue on the delinquent payment.

Subd. 6. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation upon the power of a county, city, village, borough, town, or school district to levy taxes, the governmental subdivision concerned may levy taxes in excess of the limitation in such amount as is necessary to meet its obligations under this section. The expenditures authorized to be made under this chapter by any municipality are not included in computing the cost of government as defined in any home rule charter of any municipality affected by Laws 1957, Chapter 935.

Subd. 7. The governing body of any governmental subdivision affected by this chapter may make contributions to the retirement fund of the retirement association from moneys derived from revenues other than general taxes. The use of these contributions by the retirement association may be limited to certain specific purposes and these limitations are binding upon the retirement association. The board of trustees may refuse to accept any conditional contribution.

Subd. 8. For the purposes of this section only, the state of Minnesota is considered a governmental subdivision and assumes a liability with respect to legislative officers who are members for any year for which a certification may be made pursuant to the provisions of this section. The certification in such case shall be made to the state auditor who shall transmit the certification to the next regular session of the legislature for appropriate action. Further, for the purposes of this section only, the League of Minnesota Municipalities is considered a governmental subdivision and assumes a liability with respect to its public employees who are members for any year for which a certification may be made pursuant to the provisions of this section.

[1957 c 935 s 8; 1959 c 60 s 45, 46, 58; 1961 c 744 s 2; Ex1961 c 50 s 2]

353.29 RETIREMENT BENEFIT UPON SEPARATION FROM PUBLIC SERVICE. Subdivision 1. After separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ten years of allowable service, or any person who has attained the age of at least 58 years and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity.

Sub. 2. The retirement annuity hereunder payable at age 65 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the member's average salary for the period of his allowable service. Such retirement annuity is known as the "normal" retirement annuity.

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions were based for any five consecutive years prior to that date;

(b) For each year subsequent to June 30, 1957, "average salary" of a member

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for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contributions to the retirement fund;

(c) Average salary in no case shall exceed \$4,800 per year, except that this limitation shall not apply in any case where a member has made payments into the fund between April 29, 1957, and July 1, 1958, under the provisions of section 353.36.

Subd. 3. The average salary, as defined in subdivision 2, of any member multiplied by the applicable percentages indicated below shall determine the amount of the retirement annuity to which the member qualifying therefor is entitled:

Years of Allowable Service	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years or completed months of service less than such period	2 percent per year of service
(c) Third ten years or completed months of service less than such period	2½ percent per year of service
(d) Subsequent years or completed months of service less than such period	3 percent per year of service

Subd. 4. Retirement may be made upon application of the member or of someone authorized to act in his behalf.

Subd. 5. [Repealed, 1959 c 650 s 57]
[1957 c 935 s 9; 1959 c 650 s 13-16]

353.30 ANNUITIES UPON RETIREMENT. Subdivision 1. Where any member retires prior to age 65, he shall be paid a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-half of one percent for each month that the member is under age 65 at the time of retirement.

Subd. 2. Where any member retires after age 65, he shall be paid an annuity determined in a manner provided in section 353.29.

Subd. 3. The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in section 353.29 and this section. In establishing those optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

Subd. 4. Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the board of trustees, provided that such person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which he would be otherwise entitled to receive and the monthly payment which he will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which such person would otherwise have received. Upon application of the person who is entitled to such monthly payment to the board of trustees it may be increased to not more than the amount to which such person was originally entitled to receive monthly but such person shall not be entitled to receive or to have any claim for any money which was not paid to him by reason of said reduction in such monthly payments.

[1957 c 935 s 10; 1959 c 650 s 17, 18, 58]
NOTE: See also Section 353.70.

353.31 PAYMENTS AFTER DEATH. Subdivision 1. Upon the death of the member before retirement or upon the death of a member who was disabled and receiving disability benefits pursuant to section 353.33 at the time of his death who has had at least 18 months of credited allowable service, his surviving de-

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pendent spouse and dependent children under the age of 18 shall receive the monthly benefit provided below.

- (a) Surviving dependent spouse 30 percent of the member's monthly average salary not to exceed \$65 per month
- (b) Each dependent child 20 percent of the member's monthly average salary not to exceed \$45 per month

In addition to the amounts provided in (a) and (b) hereof, ten percent of the member's monthly average salary not to exceed \$20 per month shall be paid to be divided equally among the dependent children. Payments for the benefit of any dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$250 for any one family. The surviving dependent spouse benefit shall terminate upon his or her remarriage, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of a member whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision. If the survivor benefits provided in this subdivision exceed the monthly average salary of the deceased member, these benefits shall be reduced to an amount equal to the deceased member's monthly average salary.

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Subd. 2. Upon the death of a member before retirement who has had at least 20 years of credited allowable service, his surviving dependent spouse shall be paid a deferred annuity in an amount equal to 75 percent of the member's annuity computed on the basis provided in sections 353.29 and 353.30 not to exceed \$150 per month. This annuity shall be paid when such surviving dependent spouse reaches the age of 62 and shall terminate upon remarriage. The surviving dependent spouse has the option, if qualified, to receive the benefits provided in subdivision 1 or the annuity provided in subdivision 2 but not both.

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Subd. 3. If any person dies after he has retired under the provisions of sections 353.29 or 353.30, there shall be paid to his surviving spouse an amount equal to the annuity for the entire month in which death occurs, if no optional or reversionary annuity was designated by the member.

Subd. 4. Whenever subsequent to April 29, 1957, but prior to July 1, 1957, a member died leaving surviving a spouse, with or without dependent children under 18 years of age, the surviving spouse and dependent children shall be entitled to the benefits provided by section 353.31, subdivisions 1 and 2, and for which they or any of them would qualify had the member died subsequent to June 30, 1957.

Subd. 5. Whenever subsequent to June 30, 1957, a member died and his surviving spouse qualified to receive a survivor's benefit under section 353.31, applies for and receives instead a refundment under section 353.32, the surviving spouse, upon repaying to the association within two years thereafter the amount of such refundment, with accrued interest at the rate of four percent per annum, shall be paid the benefits provided by section 353.31 for which she was qualified at the time of the death of the member as if she had not applied for or received such refundment.

Subd. 6. If a former member died after June 30, 1957, and he was receiving disability benefits pursuant to section 353.33 at the time of his death, his survivors shall be entitled to the benefits provided in subdivision 1 from and after June 30, 1961. If any such survivor received a refundment after the death of such person, the refundment shall be repaid to the fund before the survivors benefits provided herein are payable.

Subd. 7. Whenever a member, upon proof satisfactory to the board of trustees, is determined by the board to have been afflicted with a fatal illness on his last working day prior to July 1, 1959, in a position covered by Minnesota Statutes 1957, Chapter 353, as amended, which illness rendered him disabled to the date of his death occurring not more than one year from his last working day, substantiated by certificate of his attending physician, and if by reason of mistake or inadvertence of his governmental employer no official authorized leave of absence for such illness was granted him; and if the board determines, upon appropriate proof, that the said employer intended and considered, notwithstanding lack of previous official action so providing, that he be on such leave for not more than one year by reason of said fatal illness, and if such member dies within one year after his last

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working day and prior to July 1, 1959, all of which is established by resolution of the governing body of the employing governmental unit, the surviving widow and dependent child or children is entitled retroactively to survivor benefits as provided by Minnesota Statutes 1957, Section 353.31, as amended, in the same manner and to the same extent as if said employee, as a member of said association, had been on official authorized leave for said period.

[1957 c 935 s 11; 1959 c 646 s 1; 1959 c 650 s 19, 20, 47; 1959 c 651 s 1; 1961 c 467 s 1-4; Ex1961 c 79 s 1]

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353.32 REFUNDMENT TO BENEFICIARY. Subdivision 1. If a member dies before retirement and neither an optional or reversionary annuity is payable as provided herein, a refundment shall be paid to his designated beneficiary in an amount equal to his accumulated deductions plus interest thereon at the rate of two percent per annum compounded annually. If the member had received a disability benefit during his lifetime, no interest shall be paid on his accumulated deductions in the fund at the time of his death. If a former member dies before he received a retirement annuity or allowance, a refundment shall be paid to his designated beneficiary in an amount equal to his accumulated deduction without interest.

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Subd. 2. If a former member dies after retirement and an optional annuity or reversionary annuity was not payable at the time of his death, there shall be paid to his designated beneficiary a refundment of his accumulated deductions, less the total payments of all kinds made by the fund to the former member during his lifetime or to any authorized person after his death.

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Subd. 3. If a former member selected an optional annuity by the terms of which an optional survivor's annuity was paid to a survivor after his death, upon the death of the survivor there shall be paid to the former member's designated beneficiary a refundment of his accumulated deductions less the total payments of all kinds made by the fund to the former member during his lifetime or to any authorized person after his death. If a former member who retired after June 30, 1957, died prior to the effective date of Laws 1959, Chapter 646, there shall be paid to his designated beneficiary a refundment of his accumulated deductions less the total payments of all kinds made by the fund to the former member during his lifetime or to any authorized beneficiary or survivor after his death. The refundments provided in this section shall not be interpreted to apply in any case where survivor's benefits are paid pursuant to section 353.31.

Subd. 4. If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refundment, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refundment within five years from the date of death of the member or former member, the accumulated deductions to his credit at the time of death shall be disposed of in the manner provided in section 353.17.

Subd. 5. If a member or former member dies without having designated a beneficiary, or if the beneficiary should die before making application for refundment of the sum to the credit of such deceased member or former member, and the amount of the refundment is \$500 or less, the retirement board may 90 days after the date of death of the member or former member in the absence of probate proceedings make payment to the surviving spouse of the deceased member or former member, or, if none, to the next of kin under the laws of descent of the state of Minnesota and such payment shall be a bar to recovery by any other person or persons. Any retirement allowance or annuity which shall have accrued at the time of death of an annuitant may be paid in like manner.

Subd. 6. The beneficiary or surviving spouse of any deceased member or former member entitled to receive a refundment as provided in Laws 1957, Chapter 935, shall have the option of having the amount due him paid in monthly installments in such amounts as may be agreed upon with the board of trustees.

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Subd. 7. A beneficiary, legal representative, or next of kin shall be paid on demand the full amount of any additional penalty paid into the retirement fund by the deceased member in accordance with the provisions of Laws 1937, Chapter 466, Section 2; Laws 1947, Chapter 18, Section 2, or any rules made by the board of trustees pursuant to these laws, without interest thereon unless the additional penalty was previously refunded upon retirement of the said member.

[1957 c 935 s 12; 1959 c 646 s 2; 1959 c 650 s 42, 48, 58]

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353.33 PERMANENT DISABILITY BENEFITS. Subdivision 1. **Age, service and salary requirements.** Where any member becomes totally and permanently disabled after ten years of allowable service or after age 50 with five years of allowable service, whichever is sooner, he shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least five of the required ten 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.

Subd. 2. **Applications.** If written application for disability benefit has not been filed with the board within 90 days from the commencement of disability, the disability benefit shall begin to accrue 30 days prior to the receipt of such application. If salary is being received for either annual or sick leave during the said 30-day period, payments shall accrue from the date salary ceases. This benefit shall begin to accrue upon the expiration of 90 days following the commencement of disability unless the member is receiving salary for either annual or sick leave for a period of more than 90 days in which event payment shall accrue from the date salary ceased.

Subd. 3. **Computation of benefits.** This disability benefit is an amount equal to the normal annuity payable to a member who has reached 65 with the same number of years of allowable service and the same average salary, as provided in section 353.29 plus a supplementary monthly benefit computed in accordance with the following table:

Age when Disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's monthly average salary.

Subd. 4. **Determination by the board.** The board shall have the member examined by at least two licensed physicians selected by the board. These physicians shall make written reports to the board concerning the member's disability including medical opinions as to whether the member is permanently and totally disabled within the meaning of section 352.01, subdivision 19. The board shall also obtain written certification from the employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence presented by the member or others interested therein, the board finds the member totally and permanently disabled it shall grant him a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar him from receiving a disability benefit.

Subd. 5. **Benefits paid under other laws.** The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable workmen's laws. If a disabled person receives disability benefits under the provisions of the federal Social Security Act, his benefits computed under this section shall be reduced by the amount of disability benefits paid under the federal act.

Subd. 6. **Regular physical examinations.** At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the board shall require the person disabled to undergo a medical examination to be made at the place of residence of such person, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that he is no

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longer permanently and totally disabled or that he is engaged or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued. The payments shall discontinue as soon as he is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after physicians engaged by the board find that such person is no longer permanently and totally disabled.

Subd. 7. **Partial re-employment.** Should such disabled person resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

Subd. 8. **Refusal of examination.** Should any such disabled person refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability benefit shall be revoked by the board.

Subd. 9. **Return to public service.** Any person receiving a disability benefit who is restored to active public service shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement annuity based upon all allowable service including that upon which the disability benefits were based.

Subd. 10. **Disability in special cases.** Any member, other than a non-employee member, who on June 30, 1957 (1) was totally and permanently disabled, (2) had contributed to the retirement fund, either by salary deductions or assessments to and including June 30, 1957, or who was on authorized leave on June 30, 1957, (3) had made application for disability benefits, and who (4) met the allowable service or age requirements of this subdivision, as of June 30, 1957, shall be entitled to the benefits provided by this section retroactive to July 1, 1957.

Subd. 11. **Retirement status at age 65.** No person shall be entitled to receive disability benefits and a public retirement annuity at the same time. The disability benefits paid to a person hereunder shall terminate when he reaches age 65, if he is still totally and permanently disabled. At that time he shall be deemed to be on retirement status and may at his option be paid either a straight life retirement annuity as provided in section 353.29 or straight life retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater. He may instead of taking the straight life annuity provided herein, however, select an optional retirement annuity as provided in section 353.30, subdivision 3.

[1957 c 935 s 13; 1959 c 650 s 21, 41; 1961 c 595 s 2]

353.34 **TERMINATION OF PUBLIC SERVICES.** Subdivision 1. Any person who ceases to be a public employee by reason of termination of public service, shall be entitled to a refundment provided in subdivision 2, or a deferred retirement annuity as provided in subdivision 3. Application for refundment may be made no sooner than 30 days after termination of public service if the applicant has not again become a public employee.

Subd. 2. Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refundment in an amount equal to his accumulated deductions without interest.

Subd. 3. Any person with at least ten years of allowable service when such termination occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65. This annuity shall be computed in the manner provided in section 353.29 on the basis of allowable service prior to termination of service. Such person may revoke this option at any time prior to the commencement of annuity payments by filing a written statement with the board and making application for a refund. Such person shall be entitled to a refund of his accumulated deductions within 30 days thereafter.

Subd. 4. Former members who hold numbered certificates of deferred annuity and who again become members of the retirement association shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates. Former members who hold numbered certificates of deferred annuity may surrender them at any time prior to receiving an annuity and receive a refundment of their accumulated deductions upon application. Membership in

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the retirement association of any person shall terminate upon his ceasing to be a "public employee" whether by resignation, dismissal or termination of temporary or provisional appointment or death.

Subd. 5. The right of refundment provided in Laws 1957, Chapter 935 is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.

[1957 c 935 s 14; 1959 c 650 s 22, 23, 24, 49]

353.35 RESTORATION OF RIGHTS AND BENEFITS. When any member accepts a refundment all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored until the former member acquires not less than five years allowable service credit subsequent to taking his last refundment. In that event he may repay all refundment taken plus interest at four percent per annum compounded annually. If more than one refundment has been taken, all refundments must be repaid with interest at four percent per annum compounded annually.

[1957 c 935 s 15; 1959 c 650 s 38]

353.36 PAYMENTS IN LIEU OF SALARY DEDUCTIONS; CREDIT FOR PRIOR SERVICE. Subdivision 1. After July 1, 1961, no member shall be entitled to make payments in lieu of salary deductions to the board of trustees to receive credit for any period of service prior to that date for which employee contributions were not deducted from his salary. Prior to that date credit for such service may be received in the manner provided in this section. After that date credit can only be received for services rendered for which employee contributions are made as a deduction from salary, except as provided in sections 353.35 and 353.39.

Subd. 2. From July 1, 1957, until July 1, 1961, any member may make payments to receive credit in any case where these payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The amount of these payments, however, shall be six percent of the average salary for each year for which credit is sought. The member shall pay in addition interest at the rate of four percent per annum compounded annually from the year of service purchased to the date payment is made. The board of trustees may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off date. Each employing governmental subdivision shall match all payments made pursuant to this subdivision on a pro rata basis of past service rendered to each governmental subdivision. The board shall determine the amounts due and certify these amounts to the particular governmental subdivision involved. Any governmental subdivision making the employer contribution herein provided is hereby authorized to appropriate money for such purpose.

Subd. 3. Before July 1, 1957, any member may make payments to the board of trustees to receive credit in any case where the payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The board of trustees may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off time. The amount of payment and interest rate charged to the member shall be as provided in Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815.

Subd. 4. Service credits as provided in this section may not be purchased in excess of ten years.

[1957 c 935 s 16; 1959 c 650 s 25, 58]

353.37 LIMITATION ON ELIGIBILITY FOR BENEFITS. Subdivision 1. A person otherwise eligible for retirement benefits under this chapter may not receive or be paid an annuity if he (a) re-enters public service as a non-elective employee of a political subdivision, or becomes a non-elective state employee as defined in chapter 352 if such service exceeds 60 working days in any calendar year or if the salary for such service exceeds \$75 per month, or (b) he is receiving any other retirement benefit or pension authorized by law for public employees or state employees, if contributions therefor had been required from that person and if any period of public service required for benefits under this chapter was requisite in establishing eligibility for this other retirement benefit or pension. Any elected official holding office after June 30, 1959 shall be entitled to hold such office and receive his annuity otherwise payable from the Public Employees Retirement Association from and after July 1, 1959. The monthly annuity payment is suspended

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during the ineligibility of any person by reason of this subdivision. Payment for a full month is suspended for any portion of a month in which this ineligibility exists. Upon proper showing by an annuitant that this ineligibility no longer exists the board of trustees shall order that the monthly annuity payments be resumed. Public service performed by any annuitant subsequent to his application for a retirement annuity under this chapter does not increase or decrease any benefit when payments thereof are resumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service. Provided, however, that the foregoing shall not apply to any benefits authorized by federal law to which any public employee and public official may be entitled.

Subd. 2. Notwithstanding any provision of Minnesota Statutes 1957, Chapter 353 and acts amendatory thereof to the contrary, any person who retired on December 1, 1953, and who on November 21, 1957, re-entered public service as a non-elective employee of a political subdivision and whose compensation during such periods of public service did not exceed \$80 per month, shall not be subject to suspension of any annuity payments, regardless of the dates so served as a non-elective public employee following retirement, and the provisions of this subdivision shall be retroactive to November 21, 1957.

[1957 c 935 s 17; 1959 c 650 s 26, 58; Ex1961 c 87 s 1]

353.38 RIGHTS LIMITED. Nothing done under the terms of Minnesota Statutes, Chapter 353 and acts amendatory thereof shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association through separation from the public service, the accumulated deductions, as by law defined, standing to his credit on the books of the association.

[1957 c 935 s 18; 1959 c 650 s 54]

353.39 MILITARY SERVICE CREDIT. Any employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, Section 192.262, may obtain credit for his period of military service, but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be six percent of his salary not to exceed \$4,800 in any fiscal year plus interest at four percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 353.27 shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor and such contributions shall be made at the time and in the manner provided in section 353.27.

[1957 c 935 s 19; 1959 c 650 s 50]

353.40 ANNUAL LEAVE. Any person whose service with any governmental subdivision has terminated and who has been paid for any unused portion of his annual leave allowance, the unused portion of his annual leave for which he was so paid shall be deemed allowable service if no refundment is taken. If application for refundment is made, the last working day is deemed the date public service terminates and credit for such service ceases on that date.

[1957 c 935 s 20]

353.41 [Repealed, 1959 c 650 s 57]

353.42 SALARY FOR CALENDAR MONTH. Any salary paid for a fractional part of any calendar month is deemed compensation for the entire calendar month unless public service has terminated.

[1957 c 935 s 22; 1959 c 650 s 55]

353.43 [Repealed, 1959 c 650 s 57]

353.44 UNCLAIMED ANNUITIES RETURNED TO FUND. Subdivision 1. Any retirement allowance or annuity which is payable after the death of an annuitant shall be paid to the beneficiary whom the annuitant had last designated. If no beneficiary has been so designated, or, if the designated beneficiary should die before making claim for payment of such retirement allowance or annuity, and if there is no surviving spouse, and if the legal representative of such annuitant does not make such claim within five years, the amount of the retirement allowance or annuity payable to him at the time of his death shall be credited to and become a part of the retirement fund.

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D-38 } Subd. 2. If a member or former member dies without having designated a beneficiary or if the beneficiary should die without having made application for benefits and if the legal representative of such member or for former member does not apply for benefits within five years from the date of death of the member or former member, the accumulated deductions to his credit shall be credited to and become a part of the fund.

[1957 c 935 s 24]

353.45 PAYMENT TO MINOR. If a member or former member dies having named as his beneficiary a person who is a minor at the time of the application for benefit, and the amount of the benefit does not exceed \$500, the board of trustees in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child. Any retirement allowance or annuity payable at the time of death of an annuitant, which is payable to a beneficiary who is a minor, may be paid in the same manner and such payment shall be a bar to recovery by any other person or persons.

[1957 c 935 s 25; 1959 c 650 s 58]

353.46 OPTIONS. Subdivision 1. Any person who on July 1, 1957, has ten or more years of allowable service and whose deductions from salary continue at the rate in effect under Laws 1957, Chapter 935, shall have the option when he retires to receive the retirement benefits computed under Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or the benefits computed under Laws 1957, Chapter 935.

Subd. 2. Any person who ceased to be a public employee prior to July 1, 1957 and who left his accumulated deductions in the fund for the purpose of receiving, when eligible, a retirement annuity or allowance in accordance with the law in effect at the date public service terminated, shall have his annuity or retirement allowance computed in accordance with the law in effect on the date he ceased to be a public employee.

Subd. 3. Any survivor benefits selected by a member prior to July 1, 1957 pursuant to Laws 1955, Chapter 815, Section 10, shall continue in effect until the member retires. Such survivor shall have the option of receiving the payments provided under such election or the survivor benefits provided in Laws 1957, Chapter 935.

Subd. 4. Any member who retires with a deferred annuity payable pursuant to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, may select an optional annuity payable as a joint and survivor annuity which shall be in lieu of the straight life deferred annuity otherwise payable. This optional annuity shall be the actuarial equivalent of such straight life deferred annuity. The selection of this optional annuity shall be made at least 30 days before the deferred annuity payments are to begin except that any person who began receiving a deferred annuity after June 30, 1957, and before July 1, 1961, pursuant to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, may select the optional annuity provided herein by making application to the board of trustees before January 1, 1962.

[1957 c 935 s 26; 1959 c 650 s 27; Ex1961 c 87 s 2]

353.51 SCOPE AND APPLICATION. Sections 353.51 to 353.59 apply to any member of the public employees retirement association included in any agreement or modification made between the state and the secretary of health, education and welfare, making the provisions of the federal old age and survivors insurance act applicable to such member. Sections 353.51 to 353.59 also apply to any government subdivision employing such member. Except as otherwise specifically provided in sections 353.51 to 353.59, the provisions of Minnesota Statutes, Chapter 353, shall apply.

[Ex1957 c 20 s 1]

353.52 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEES. Subdivision 1. The employee contribution to the public employees retirement fund shall be an amount equal to three percent of the salary of every member. This contribution shall be made by deduction from salary. No deduction shall be made from any salary in excess of \$4,800 in any calendar year. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received limited to \$4,800 in any calendar year.

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Subd. 2. The employer contribution to the fund shall be an amount equal to three percent of the salary of each member not exceeding \$4,800 in any calendar year.

Subd. 3. An additional contribution shall be made to the fund based on the salary of each member not to exceed \$4,800 in any calendar year for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision. The amount of this additional contribution shall be the amounts specified below for the years noted:

(a) 1958 - 59	3½ percent
(b) 1960 - 64	3 percent
(c) 1965 - 69	2½ percent
(d) 1970 - 74	2 percent
(e) 1975 and after	1½ percent

[*Ex*1957 c 20 s 2]

353.53 RETIREMENT BENEFITS. Subdivision 1. The retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in subdivision 2 hereof on the basis of each member's average salary for the period of his allowable service.

(a) For years prior to July 1, 1957, average salary for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions are based for any five consecutive years prior to that date.

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contributions to the retirement fund by payroll deductions.

(c) Average salary in no case shall exceed \$4,800.

Subd. 2. The average salary, as defined in subdivision 1, of any member multiplied by the applicable percentages indicated below shall determine the amount of the annuity to which the member qualifying therefor is entitled:

Years of Allowable Service:	Percentages at the Rate of:
(a) First ten years	½ of 1 percent per year of service.
(b) Second ten years of completed months of service less than such period	1 percent per year of service.
(c) Third ten years of completed months of service less than such period	1.25 percent per year of service.
(d) Subsequent years of completed months of service less than such period	1.50 percent per year of service.

Subd. 3. [Repealed, 1959 c 650 s 57]

Subd. 4. [Repealed, 1959 c 650 s 57]

[*Ex*1957 c 20 s 3; 1959 c 650 s 51, 52]

353.54 OPTIONAL RETIREMENT ANNUITIES. The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the normal forms. In establishing these optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

[*Ex*1957 c 20 s 4; 1959 c 650 s 58]

353.55 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY. Any member who retires before he is eligible for social security retirement benefits may elect to receive retirement benefits from the association in an amount greater than his annuity computed on the basis of his age when he retires, provided in section 353.53. He shall exercise this option by making application to the board on a form provided by the board. This greater amount shall be the actuarial equivalent of the member's retirement annuity computed on the basis of his age when he retires. This greater amount shall be paid until the member reaches the age of 65, at which time the payment from the association shall be reduced. These annuities provided in this section shall be computed by an approved actuary.

[*Ex*1957 c 20 s 5]

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353.56 PAYMENTS AFTER DEATH. Subdivision 1. Where a member dies before retirement, there shall be paid to his beneficiary or legal representative, as the case may be, an amount equal to his accumulated deductions plus interest credited to this account to the date of death.

Subd. 2. Where a former member dies after retirement, a death benefit shall be paid in accordance with his optional annuity selected pursuant to section 353.54 or any other reversionary annuity selected by the member before retirement.

Subd. 3. Under the terms of sections 353.51 to 353.59 there are no survivors benefits payable as such to the surviving spouse or dependent children of any deceased member. However, any member may provide for payments to a surviving spouse or any dependent child by selecting an appropriate annuity payable after his death to any such person in the manner authorized by the board as provided in section 353.54.

[*Ex1957 c 20 s 6*]

353.57 DISABILITY BENEFITS. The amount of the disability benefit shall be \$90 per month until the member reaches the age of 50. In addition he shall receive an annuity based on his age when disabled computed in the manner provided in section 353.53, with interest computed as provided in paragraphs (a) and (b) of that section, to the date of disability rather than the date of retirement.

[*Ex1957 c 20 s 7*]

353.58 MILITARY SERVICE CREDIT. After any agreement or modification is made pursuant to section 353.59, an employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, Section 192.262, may obtain credit for his period of military service but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be three percent of his salary not to exceed \$4,800 in any fiscal year. In such cases the matching employer contribution and additional contribution shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor.

[*Ex1957 c 20 s 8; 1959 c 650 s 53*]

353.59 EFFECTIVE DATE; APPLICATION. Sections 353.51 to 353.59 take effect on the date any agreement or modification is made between the state and secretary of health, education and welfare, making such agreement or modification applicable to service performed in positions covered by the public employees retirement association after a referendum was held and a majority voted in favor thereof as provided by law. Sections 353.51 to 353.59 shall apply to any coverage group consisting of members of the public employees retirement association included in any such agreement or modification. Sections 353.51 to 353.59 do not apply nor have any effect upon any member who holds a position which under the social security act may not be included in an agreement between the state and secretary of health, education and welfare.

[*Ex1957 c 20 s 9*]

353.60 FEE OFFICERS; OPTIONAL MEMBERSHIP; CONTRIBUTIONS.

Subdivision 1. Any appointed or elected officer of a governmental subdivision who is a public employee within the meaning of section 353.01 and is a member of the fund and whose salary is paid in whole or in part from revenue derived by fees and assessments, shall pay to his employee contribution in the manner provided in this chapter. The employer contribution as provided in section 353.27, subdivision 3, and the additional contribution to amortize the deficit in the fund as provided in section 353.27, subdivision 5, with respect to such service shall be paid by the governmental subdivision. All contributions shall be paid currently.

Subd. 2. The employer contribution and the additional contribution to amortize the deficit in the fund provided in sections 353.36, subdivision 6, 353.27, subdivisions 3 and 5, due with respect to the services of any public employee who is employed by an appointed or elected officer of a governmental subdivision who derives revenue from fees or assessments, shall be paid by the governmental subdivision.

[*1959 c 650 s 28*]

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353.61 RETIREMENT ANNUITY, MEMBER AT LEAST AGE 65 WITH FIVE TO TEN YEARS ALLOWABLE SERVICE. Any member who has attained the age of at least 65, has acquired at least five but less than ten years of allowable service, was at least 60 years of age on June 30, 1957, was a member of the fund and had five years of allowable service on June 30, 1957, shall upon written application be entitled to a retirement annuity computed in the manner provided in section 353.29, except that the percentage rate shall be two percent per year of allowable service and except that such member shall be entitled to this annuity notwithstanding the fact that he has not acquired ten years of allowable service.

[1959 c 650 s 29]

353.62 NON-EMPLOYEE MEMBERSHIP ABOLISHED. Subdivision 1. On the effective date of this act all non-employee membership in the public employee retirement association shall terminate regardless of the date when such status was acquired and membership in the association shall not be afforded to any person thereafter who is not a public employee within the meaning of section 353.01, subdivision 2. Prior to the effective date of this act, the rights of any non-employee member who has paid into the fund shall not be impaired except as provided in subdivision 2 hereof.

Subd. 2. Any person who held the status of a non-employee member shall be entitled to a refundment of his accumulated deductions at any time, as provided in section 353.34, subdivision 2, or a deferred annuity as provided in section 353.34, subdivision 3, except that any such person who on July 1, 1957, had ten or more years of allowable service as an employee member of the fund shall be entitled also to the options provided in section 353.46 if he otherwise qualifies. Any person whose majority of years of membership or last membership in the fund has been in the status of non-employee member or any person claiming rights through such non-employee member shall be entitled only to the annuities specified in this subdivision.

[1959 c 650 s 30]

353.63 POLICY. It is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protecting the property and personal safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivors benefits based on the particular dangers inherent in these occupations. The benefits provided in sections 353.63 to 353.68 are more costly than similar benefits for other public employees since they are computed on the basis of a shorter working lifetime taking into account experience which has been universally recognized. This extra cost should be borne by the employee and employer alike at the ratio of 40 percent employee contributions and 60 percent employer contributions.

[1959 c 650 s 31]

353.64 MEMBERSHIP. Subdivision 1. Any employee serving on a full-time basis as a police officer or fire fighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer or fire fighter, as determined by the rules prescribed by the board of trustees, shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the political subdivision employing such person declaring that the position such person holds is either that of a police officer or fire fighter. Any police officer or fire fighter who by virtue of his employment is required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision shall not be a member of this fund.

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed shall, as a minimum, include services as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office who is engaged in the hazards of protecting the safety and property of others and who has the power to arrest by warrant.

Subd. 3. Before a governing body may declare a position to be that of a fire fighter, the duties of the person so employed shall, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or companies who is engaged in the hazards of fire fighting.

Subd. 4. A copy of the resolution of the governing body declaring a position to

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be that of police officer or fire fighter shall be filed with the board of trustees and shall be irrevocable.

Subd. 5. Any person employed on less than a full-time basis as a police officer or fire fighter who is a member of the public employees police and fire fund on June 30, 1961, shall remain a member of the fund unless before July 1, 1962, the governing body of the political subdivision employing such person adopts and files a resolution with the board of trustees declaring the position such person holds is not that of a police officer or fire fighter employed on a full-time basis and that the governing body desires that he not be a member of the public employees police and fire fund. If such a resolution is filed, the employee, if otherwise qualified, shall become a general member of the public employees retirement association.

[1959 c 650 s 32; 1961 c 743 s 1]

353.65 CONTRIBUTIONS. Subdivision 1. There is a special fund known as the "Public Employees Police and Fire Fund." In that fund there shall be deposited employee contributions, employer contributions and other amounts authorized by law including all employee and employer contributions of members transferred.

Subd. 2. The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. No deduction shall be made from any salary in excess of \$4,800 in any calendar year. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received limited to \$4,800 in any calendar year.

Subd. 3. The employer contribution to the fund shall be an amount equal to nine percent of the salary of each member not exceeding \$4,800 in every calendar year commencing July 1, 1958. This contribution shall be made in the manner provided in section 353.28.

Subd. 4. The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted in the manner and subject to the terms provided in section 353.27, subdivision 4.

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision in the manner provided in section 353.28.

Subd. 6. All contributions shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

[1959 c 650 s 33]

353.66 RETIREMENT ANNUITY. Subdivision 1. After separation from public service, any police officer or fire fighter member who has attained the age of at least 58 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity.

Subd. 2. The retirement annuity hereunder payable at age 58 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the member's average salary for the period of his allowable service while performing the duties of a police officer or fire fighter. If the member has earned allowable service while performing services other than those of a police officer or fire fighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30. Such retirement annuity is known as the "normal retirement annuity."

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions were based for any five consecutive years prior to that date limited to \$4,800 per year;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contribution to the retirement fund by payroll deduction;

(c) Average salary in no case shall exceed \$4,800 per year.

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Subd. 3. The normal annuity for any member shall be computed by multiplying his average salary times two percent per year of allowable service for the first 30 years of service and one percent per year of service thereafter.

[1959 c 650 s 34; 1961 c 743 s 2]

353.67 APPLICATION FOR RETIREMENT. Retirement may be made upon application of the member or someone authorized to act in his behalf.

[1959 c 650 s 35]

353.68 SCOPE AND APPLICATION. Subdivision 1. The general provisions of Minnesota Statutes, Chapter 353, apply to all police officers and fire fighters who are members of the police and fire fund and also to all governmental subdivisions employing such members except where otherwise specifically provided in sections 353.63 to 353.68.

Subd. 2. The computations of the disability benefits of section 353.33, subdivision 2, as they apply to members of the police and fire fund shall be equal to the normal annuity based on the person's age when disabled, provided in section 363.66, plus a supplementary monthly annuity computed in accordance with the following table:

Age when Disabled	Supplementary Benefit
Under 51	\$50
51	44
52	38
53	32
54	26
55	20
56	12
57	6

Subd. 3. If a member of the police and fire fund is permanently and totally disabled in the line of duty regardless of his age or years of service when disabled, he shall be paid a disability benefit in an amount equal to 40 percent of his average salary as defined in section 353.66. Except as specifically provided in this subdivision, all other terms and conditions of section 353.33 shall apply to establish qualifications in these cases of special line of duty disability.

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 58 and shall be computed in the manner provided in section 353.66 on the basis of allowable service prior to termination of service.

Subd. 5. The survivors annuity of section 353.31, subdivision 2, shall be paid in behalf of members of the police and fire fund under the following terms and conditions: Upon the death of a member before retirement who has had at least 20 years of allowable service, his surviving spouse shall be paid a deferred annuity in an amount equal to 75 percent of the member's normal annuity provided in section 353.66 not to exceed \$150 per month. If at the time of death the member was under 58 years of age, his normal annuity shall be reduced one-half of one percent for each month that he was under age 58. This annuity shall be paid when the surviving spouse reaches the age of 62 and shall terminate upon remarriage. The surviving spouse has the option, if qualified, to receive the annuity provided in this subdivision or the benefit provided in section 353.31, subdivision 1, but not both.

[1959 c 650 s 36; 1961 c 743 s 3]

353.69 OFFICERS OR EMPLOYEES OF MUNICIPALITY NOT COVERED; OPTION OF FORMER MEMBERS. Any former member who is an elected official or an employee of a municipality not covered by the public employees retirement association, has the option to continue his membership in the association for any period of service with the municipality. This option applies to future service as well as past service. Any person desiring to exercise this option shall make application to the board, shall designate the period of service for which he desired coverage and shall pay the employee contribution to the fund for such service at the rate of six percent of salary limited to \$4,800 per year. The municipality shall pay a matching amount plus the amount to amortize the deficit in the fund in the manner provided in sections 352.27, subdivision 5, and section 353.28. Contributions for any past service shall be paid with interest at the rate of four percent per annum compounded annually. Notwithstanding any provision to the contrary, no such person shall be entitled to credit for service with the public employees retire-

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ment association if for the same period of service he receives credit with any other public retirement or pension plan maintained by the municipality.

[1959 c 650 s 56]

353.70 PUBLIC PENSIONS AND RETIREMENT FUNDS, WAIVER OF BENEFITS.

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Subdivision 1. Any person entitled to the payment of pension, retirement or other benefits from a public pension or retirement fund created by the laws of the state of Minnesota providing benefits for governmental employees may waive any portion of his monthly payments in the manner provided in this section. Any monthly payments to which such person may be entitled may be reduced in amount upon the application of such person. The application shall be made to the board of trustees or other governing body administering the public pension or retirement fund. Such person shall state in his application that he relinquishes all claim to that portion of the full monthly payment which is the difference between the monthly payment which he would otherwise be entitled to receive and the reduced monthly payment he desires to receive.

Subd. 2. The reduced monthly payment authorized herein shall be deemed payment in full of all amounts due and the acceptance of the reduced monthly payment releases the public pension or retirement fund from all obligations to pay to such person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which such person would have otherwise received.

Subd. 3. Upon application to the board of trustees or other governing body administering the public pension or retirement fund, such person may have the reduced monthly payments increased to not more than the amount to which he was originally entitled to receive and thereafter he shall not be entitled to receive or to have any claim to any money which was not paid by reason of said reduction in such monthly payments.

[1961 c 670 s 1-3]

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