

MINNESOTA STATUTES 1975 SUPPLEMENT

344.19 PARTITION FENCES

CHAPTER 344. PARTITION FENCES

Sec.
344.19 Viewers in counties not organized into towns.

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In counties not organized into towns, the county commissioners shall be fence viewers and be governed by the provisions of this chapter, except that county commissioners shall not receive the per diem provided in section 344.18 but may be paid a per diem pursuant to section 375.055, subdivision 1, and in addition thereto their necessary expenses, including mileage in accordance with section 43.328.

[1975 c 301 s 6]

CHAPTER 347. DOGS

Sec.
347.33 Licensing procedures; inspections; administration.

347.33 Licensing procedures; inspections; administration.

[For text of subds 1 and 2, see M.S.1974]

Subd. 3. Fees; issuance of license. The annual license fee is \$10 for each kennel licensed. All license fees collected by the board shall be deposited in the state treasury and credited to the general fund.

When application is made to the livestock sanitary board, complete in the manner set forth by regulation to be issued by the livestock sanitary board, and upon payment of the license fee, the license shall be issued by said board if, after inspection of the premises, the board determines that the dog kennel complies with sections 347.31 to 347.40 and the rules and regulations promulgated pursuant to it.

[1975 c 204 s 84]

CHAPTER 352. MINNESOTA STATE RETIREMENT SYSTEM

Sec. 352.01	Definitions.	Sec. 352.38	Repealed.
352.022	Rights limited. [New]	352.32	Repealed.
352.03	Board of directors, composition, executive director; duties, powers.	352.715	Repealed.
352.113	Permanent disability benefits.	352.72	Coverage by more than one retirement system or association.
352.115	Retirement annuity.	352.91	Covered correctional service.
352.12	Refundment after death of employee or former employee.	352.93	Retirement annuity.
352.15	Exemption from process and taxation.	352.96	Deferred compensation. [New]
352.22	Refundments or deferred annuities.	352.97	Prior deferred compensation plans; construction. [New]

352.01 Definitions.

[For text of subds 1 to 16, see M.S.1974]

Subd. 17. 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 which is a period of at least one year.

[1975 c 368 s 13]

[For text of subds 18 to 23, see M.S.1974]

352.022 Rights limited.

No provision of chapter 3A, 352, 352B, 352C, 352D or 490, shall create or

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give any contract rights to any person.

[1975 c 368 s 14]

352.03 Board of directors, composition, executive director; duties, powers.

[For text of subds 1 to 3, see M.S.1974]

Subd. 4. Duties and powers of board of directors. It is the duty of the board and it has power to:

- (1) Elect a chairman;
- (2) Appoint an executive director;
- (3) Fix the compensation of the executive director and the assistant executive director;
- (4) Establish rules and regulations for the administration of the provisions of chapters 3A, 352, 352B, 352C, 352D and 490 and transaction of the business of the system, all subject to the limitations of said chapter and the law;
- (5) Consider and dispose of, or take such other action as the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system;
- (6) Advise the director on any matters relating to the system and the carrying out of the functions and purposes of said chapter, which advice shall be controlling; and

The director and assistant director shall be in the unclassified service but appointees may be selected from civil service lists if it is desired to do so.

[For text of subds 5 to 10, see M.S.1974]

Subd. 11. Legal adviser, attorney general. The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued in the name of the board of directors of the Minnesota state retirement system and in all actions brought by it or against it, the board shall be represented by the attorney general provided that venue of all such actions shall be in the Ramsey county district court.

[For text of subds 12 to 15, see M.S.1974]

Subd. 16. Data processing services. Notwithstanding chapter 16, or any law to the contrary, the executive director of the Minnesota state retirement system may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a portion of such services.

[1975 c 368 s 15-17]

352.113 Permanent disability benefits.

Subdivision 1. Age and service requirements. Any employee covered by the system who is less than 65 years of age who becomes totally and permanently disabled after ten or more years of allowable service and any employee who is at least 50 years of age but less than 65 years of age who becomes totally and permanently disabled after five or more years of allowable service shall be entitled to a disability

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benefit in an amount provided in subdivision 3. If such disabled employee's state service has terminated at any time, at least five years of allowable service must have been rendered after last becoming a state employee covered by the system.

[For text of subs 2 to 4, see M.S.1974]

Subd. 5. Benefits paid under other laws. The disability benefit shall be reduced by any amounts received or receivable by an employee from the employer under applicable workmen's compensation laws except by that amount of the award approved by the commission for payment of attorney fees.

[For text of subs 6 to 11, see M.S.1974]

Subd. 12. Retirement status at age 65. The disability benefit paid to an employee 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 a retired employee and may then elect to receive a normal retirement annuity equal to the disability benefit paid to him before he reached age 65 or an optional annuity as provided in section 352.116, subdivision 3. Election of an optional annuity must be made within 60 days prior to reaching age 65 and, if elected, the optional amount shall begin to accrue the first of the month following the month in which the employee attains age 65.

[1975 c 368 s 18-20]

352.115 Retirement annuity.

[For text of subd 1, see M.S.1974]

Subd. 2. Average salary. 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 employee's average salary for the period of his allowable service. Such retirement annuity is known as the "normal" retirement annuity.

For each year of allowable service, "average salary" of an employee for the purpose of determining his retirement annuity means the average of the highest five successive years of salary upon which he has made contributions to the retirement fund by payroll deductions.

"Average salary" shall not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor shall it include the reduced salary, if any, paid during the period the employee is entitled to benefit payments from the workmen's compensation commission for temporary disability.

[For text of subs 3 to 9, see M.S.1974]

Subd. 10. Re-employment of annuitant. Should any retired employee again become entitled to receive salary or wages from the state, other than salary or wages received as a temporary employee of the legislature during a legislative session, his annuity or retirement allowance shall cease when he has earned \$3,000 in any calendar year. The annuity shall be resumed when state service terminates, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of such calendar year, and payment shall again terminate when he has earned \$3,000. No payroll deductions for the retirement fund shall be made from the earnings of such retired employee. If such retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance shall be resumed during the period of sick leave. No change shall be made in the monthly

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amount of such annuity or retirement allowance because of such employment.

Subd. 11. Accrued annuity at death. Any annuity which had accrued prior to the death of a retired employee, and any disability benefit which had accrued prior to the death of a disabled employee shall be paid to the beneficiary whom the retired employee or the disabled employee had last designated. If (a) no beneficiary has been so designated, or (b) the designated beneficiary should die before making claim for payment of such annuity or benefit, payment shall be made to the surviving spouse, or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the legal representative of such retired employee or disabled employee. If such designated beneficiary, surviving spouse, or legal representative entitled thereto does not apply for payment within five years from the date of death of the retired employee or disabled employee, the annuity or disability benefit which had accrued at the time of death shall be credited to and become a part of the retirement fund.

[1975 c 368 s 21-23]

[For text of subs 12 and 13, see M.S.1974]

352.12 Refundment after death of employee or former employee.

Subdivision 1. Death before termination of service. If an employee dies before his state service has terminated and neither a survivor annuity nor a reversionary annuity is payable or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refundment to his last designated beneficiary or, if there be none, to his surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of his estate in an amount equal to his accumulated contributions plus interest thereon to the date of death at the rate of three and one-half percent per annum compounded annually. In the event an employee dies who has received a refundment which he had subsequently repaid in full, interest shall be paid on such repaid refundment only from the date of repayment. If the repayment was made in installments, interest shall be paid only from the date installment payments began. The designated beneficiary, surviving spouse or representative of the estate of an employee who had received a disability benefit shall not be entitled to interest upon any balance remaining to his credit in the fund at the time of death.

Subd. 2. Surviving spouse benefit. If an employee who has attained the age of at least 62 years and has credit for not less than ten years allowable service or who has attained the age of at least 58 years and has credit for not less than 20 years allowable service dies before his state service has terminated or if an employee who has filed a valid application for an annuity or disability benefit prior to the termination of his state service dies before the benefit has become payable, notwithstanding any designation of beneficiary to the contrary, his surviving spouse may elect to receive, in lieu of the refundment with interest provided in subdivision 1, an annuity equal to the joint and 50 percent survivor annuity which the employee could have qualified for had he retired on the date of death, computed as provided in section 352.115, subdivisions 2 and 3, and section 352.116, subdivisions 1 and 3. The annuity shall cease with the last payment received by the surviving spouse in his or her lifetime. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the benefits paid and payable to the surviving spouse shall be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of such deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to his designated beneficiary as otherwise provided by this chapter.

[For text of subs 3 to 5, see M.S.1974]

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Subd. 6. Death after service termination. Except as provided in subdivision 1, if a former employee covered by the system dies and he has not received an annuity, a retirement allowance or a disability benefit, a refundment shall be made to his last designated beneficiary or, if there be none, to his surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of his estate in an amount equal to his accumulated contributions.

Subd. 7. Absence of optional or reversionary annuity. If a retired employee dies who selected neither an optional annuity or a reversionary annuity, there shall be paid to his designated beneficiary or, if there be none, to his surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of his estate, an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately prior to his retirement over and above the aggregate of (1) all annuities, retirement allowances and disability benefits he had received and which had accrued in his lifetime, and (2) the annuity, retirement allowance or disability benefit if applicable, payable to his surviving spouse under section 352.115, subdivision 8, or section 352.113, subdivision 4, for the calendar month in which the retired employee died.

Subd. 8. Optional or reversionary annuity. If the last eligible recipient of an optional annuity dies and the total amounts paid thereunder are less than the accumulated contributions to the credit of the retired employee immediately prior to his retirement, the balance of such accumulated contributions shall be paid to the person designated by the retired employee in writing to receive the same, but if no such designation has been made by the retired employee the remaining balance of such accumulated contributions shall be paid to the surviving children of the deceased recipient of the optional annuity in equal shares or, if none, to the deceased recipient's parents or, if none, to the representative of the deceased recipient's estate.

[For text of subs 9 and 10, see M.S.1974]

Subd. 11. Death of disability annuitant. If an employee who has received a disability benefit dies, there shall be paid to his last designated beneficiary or, if there be none, to his surviving spouse, or if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of his estate, an amount equal to the excess, if any, of the accumulated contributions to the credit of the employee at the time the disability benefit began to accrue over and above the aggregate of (1) all disability benefits he had received and which had accrued in his lifetime, and (2) the benefit for the month in which the disabled employee died, payable, if applicable, to his surviving spouse under section 352.113, subdivision 4, and acts amendatory thereof.

[1975 c 368 s 24-29]

[For text of subs 12 and 13, see M.S.1974]

352.15 Exemption from process and taxation.

Subdivision 1. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, or to any state income tax or state inheritance tax, except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided, however, the executive director may pay an annuity, benefit or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former employee, the executive director may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such employee's account or joint account with

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his spouse. The board of directors may prescribe the conditions under which such payments will be made.

Subd. 2. Upon certification to the director by the commissioner of finance or the regents of the university of Minnesota or the head of any other department or agency responsible for the processing of its payrolls, the director shall release part or all of any moneys held for an employee in a retirement fund to correct a salary overpayment to an employee who has been erroneously paid. Provided however that the director shall not release such moneys until such time as the former employee or person otherwise entitled thereto would be eligible to apply for a refund and has been given proper notice. Amounts paid under the provisions of this subdivision shall be the equivalent of a refund. If an employee or survivor is entitled to an immediate or deferred annuity or survivor benefit, no funds shall be paid from his retirement account under this provision. The director shall prescribe the form and manner of certification.

[1975 c 368 s 30]

352.22 Refundments or deferred annuities.

[For text of subs 1 and 2, see M.S.1974]

Subd. 3. Deferred annuity. (1) Any employee with at least ten years of allowable service when such termination occurs may at his option leave his accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity shall be computed in the manner provided by the law in effect at the time state service terminated, on the basis of allowable service prior to termination of service.

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

(3) The provisions of section 352.28, subdivision 1, and section 352.115, subdivisions 4 and 5 shall not apply to paragraphs (1) and (2) hereof.

(4) No application for a deferred annuity shall be made prior to the time the former employee reaches the required age to entitle him to the payment of such annuity. Such deferred annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed in the office of the system except that if an optional annuity as provided in section 352.116 is selected the annuity shall begin to accrue 30 days after the application is filed but in no event prior to the date the employee reaches the required age to entitle him to such annuity nor prior to the day following the termination of state service in a position not covered by the retirement system nor prior to the day following the termination of employment in a position which requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(5) Application for the accumulated contributions left on deposit with the fund may be made at any time after 60 days following the date of his termination of service.

[For text of subs 4 and 5, see M.S.1974]

Subd. 8. Refund specifically limited. If a former employee covered by the system does not apply for refund within five years after the last deduction was taken from his salary for the retirement fund, and he does not have sufficient service to qualify for a deferred annuity such accumulated contributions shall be credited to and become a part of the retirement fund. In the event the former employee returns to state service and becomes a state employee covered by the system, the amount so

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credited to the retirement fund, if more than \$2, shall be restored to his individual account. If the amount so credited to the fund is over \$2 and the former employee applies for refund or an annuity pursuant to the provisions of section 352.72, the amount shall be restored to the former employee's individual account and refund made or annuity paid whichever applies.

[1975 c 368 s 31,32]

[For text of subs 9 to 11, see M.S.1974]

352.28 Subdivision 1. [Repealed, 1975 c 368 s 51]

Subd. 2. [Repealed, 1975 c 368 s 51]

Subd. 4. [Repealed, 1975 c 368 s 51]

Subd. 7. [Repealed, 1975 c 368 s 51]

Subd. 8. [Repealed, 1975 c 368 s 51]

352.32 [Repealed, 1975 c 368 s 51]

352.38 Subdivision 1. [Repealed, 1975 c 368 s 51]

Subd. 3. [Repealed, 1975 c 368 s 51]

352.715 [Repealed, 1975 c 368 s 51]

352.72 Coverage by more than one retirement system or association.

[For text of subd 1, see M.S.1974]

Subd. 2. Computation of deferred annuity. The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, shall be computed in the manner provided in section 352.22, subdivision 3, and acts amendatory thereof, on the basis of allowable service prior to termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity shall be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be five percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the present value of the annuity. Uninterrupted service for the purpose of this subdivision shall mean periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refundment, the service restored by such repayment shall be considered as continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. The mortality table and interest assumption used to compute such annuity shall be those in effect at the time the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

[For text of subd 4, see M.S.1974]

Subd. 5. Early retirement. The requirements and provisions for retirement prior to age 65 in sections 352.115, subdivision 1, and 352.116 shall also apply to an employee fulfilling such requirements with a combination of service as provided in

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subdivision 1.

[1975 c 368 s 33,34]

352.91 Covered correctional service.

[For text of subs 1 and 2, see M.S.1974]

Subd. 3. Covered correctional service includes service rendered prior to July 1, 1973, in a classification of farmer or farm manager by an employee employed in a covered correctional position on July 1, 1973. Services performed before July 1, 1974 in a classification defined in subdivisions 1, clause (a) and (b) and 2 by an employee in a covered correctional position on or after July 1, 1974, shall be covered correctional service and shall be applicable to employees retiring after July 1, 1974. The portion of the retirement benefit payable to any special teacher who was covered by the correctional plan under subdivision 2 and who retires after July 1, 1974, which is based on service rendered prior to July 1, 1974, if such service was covered by the state teachers retirement basic formula, shall be not less than the benefit determined using such basic formula and shall never be less than the benefit which would have been payable on such service under the basic formula adjusted for the number of months the employee is under age 65 at date of retirement.

[1975 c 368 s 35]

352.93 Retirement annuity.

Subdivision 1. After separation from state service an employee covered under section 352.91 who has attained the age of at least 55 years and has credit for not less than a total of ten years of covered correctional service and regular Minnesota state retirement system service shall be entitled upon application to a retirement annuity under this section based only on covered correctional employees' service. Application may be made no earlier than 60 days prior to the date the benefit will begin to accrue.

For the purpose of this section, average salary means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system.

[1975 c 368 s 36]

[For text of subs 2 to 6, see M.S.1974]

352.96 Deferred compensation.

Subdivision 1. Written agreement for deferment. At the request of an officer or employee of the state of Minnesota or any political subdivision thereof, or an employee covered by any of the retirement funds enumerated in section 356.20, subdivision 2, the appointing authority shall by payroll deduction defer the payment of part of the compensation of the officer or employee as provided in a written agreement between the officer or employee and the state of Minnesota, the political subdivision, or other employing unit whose employees are covered by any of the public retirement funds enumerated in section 356.20, subdivision 2, in such a manner as will qualify the deferred amount for benefits afforded under federal and state tax laws, regulations, and rulings.

Subd. 2. Purchase of shares. The amount of compensation so deferred shall be used to purchase shares in the Minnesota supplemental retirement fund established in section 11.18. The shares so purchased shall stand in the name of the state of Minnesota or other employing unit, for the officer or employee whose deferred compensation purchased said shares, until distributed to said officer or employee in a manner agreed upon by the employee and the executive director of the Minnesota state retirement system, acting for the employer. Nothing in this subdivision shall be construed as to authorize an employer contribution, nor shall the state, the polit-

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ical subdivision, or other employing unit be responsible for any loss which may result from investment of the deferred compensation.

Subd. 3. Executive director to administer section. The provisions of this section shall be administered by the executive director of the Minnesota state retirement system pursuant to the provisions of subdivision 4.

Subd. 4. Executive director to establish rules. The executive director of the Minnesota state retirement system shall establish rules, regulations, and procedures to carry out the provisions of this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay such costs are hereby appropriated from the fund or account in which the assets accumulated under this section are placed.

Subd. 5. Other laws not applicable. No provision of this chapter or other law specifically referring to this chapter is applicable to this section unless this section is specifically mentioned therein.

[1975 c 273 s 1]

352.97 Prior deferred compensation plans; construction.

Sections 352.96 and 352.97 shall not be construed to preempt, prohibit, ratify or approve any other deferred compensation plan which is established prior to or which may be established subsequent to June 3, 1975.

[1975 c 273 s 2]

CHAPTER 352B. HIGHWAY PATROLMEN, RETIREMENT

Sec.		Sec.	
352B.01	Definitions.	352B.04	Repealed.
352B.021	Repealed.	352B.262	Disability benefit increase. [New]
352B.03	Officers, duties.	352B.30	Coverage by more than one retirement system or association. [New]

352B.01 Definitions.

[For text of subs 1 to 4, see M.S.:1974]

Subd. 5. [Repealed, 1975 c 368 s 51]

[For text of subs 6 to 10, see M.S.:1974]

352B.021 [Repealed, 1975 c 368 s 51]

352B.03 Officers, duties.

Subdivision 1. Officers. The policymaking, management and administrative functions governing the operation of the highway patrolmen's retirement fund shall be vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority and responsibility as is provided in chapter 352.

Subd. 2. Duties of treasurer. The state treasurer shall be ex officio treasurer of the highway patrolmen's retirement fund and his general bond to the state shall cover all liability for his actions as treasurer of the fund.

All moneys of the association received by the treasurer pursuant to chapter 352B, shall be set aside by him in the state treasury and credited to the highway patrolmen's retirement fund. He shall transmit, monthly, to the director, a detailed statement showing all credits to and disbursements from said fund. He shall disburse moneys from such fund only on warrants issued by the commissioner of finance upon vouchers signed by the director.

[1975 c 368 s 37,38]

352B.04 [Repealed, 1975 c 368 s 51]