

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.** "Public employee" means any person performing personal services for a governmental subdivision, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term also includes special classes of persons listed in subdivision 2a, but excludes special classes of persons listed in subdivision 2b.

Subd. 2a. **Included employees.** The following persons are included in the meaning of "public employee":

- (a) Elected or appointed officers and employees of elected officers.
- (b) District court reporters.
- (c) Officers and employees of the public employees retirement association.
- (d) Employees of the League of Minnesota ~~Municipalities~~.
- (e) Officers and employees of public hospitals, owned or operated by or an integral part of, any governmental subdivision or governmental subdivisions.
- (f) Employees of a school district who receive separate salaries for driving their own buses.

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

- (a) Persons employed for professional services where such service is incidental to regular professional duties.
- (b) Election officers.
- (c) Independent contractors and their employees.
- (d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.
- (e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.

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(f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year. In the event such employees receive compensation on a monthly salary basis, each calendar month for which they are so paid shall constitute 30 working days; however, immediately following the expiration of such 120 working days if such employees continue in public service and earn in excess of \$150 in any one calendar month, the department heads must then report all such employees for membership and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4.

(g) Parttime employees who receive monthly compensation not exceeding \$150, and parttime employees and elected officials whose annual compensation is stipulated in advance to be not more than \$1,800 per year.

(h) Persons who first occupy an elected office after February 1, 1969, the compensation for which does not exceed \$150 per month.

(i) Emergency employees who are employed by reason of work caused by fire, flood, storm or similar disaster.

(j) 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, except as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; provided that this clause shall not prevent a person who belongs to the public employees retirement association from also belonging to or contributing to a volunteer firemen's relief association that does not determine its benefits or contributions on the basis of the salary or compensation of the fireman.

(k) 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.

(l) Persons who make application to be exempted from membership in the public employees retirement association, due to membership in any religious organization which has been organized five years or more, and whose customs, rites or religious beliefs forbid their membership in any public retirement association, providing such persons file an application stating the applicable provisions of their religious organization, confirmed by such organization, and waive all claims for retirement annuities or benefits of any kind pursuant to this chapter.

(m) Students who are occasionally employed part time by a governmental subdivision in any capacity and full time students who are enrolled and are regularly attending classes at an accredited school, college or university; provided, no full time public employees shall be exempt under this paragraph and any such employees presently exempt hereunder shall become members as of July 1, 1976.

(n) Resident physicians, medical interns and pharmacist interns who are serving in public hospitals.

(o) Appointed or elected officers, paid entirely on a fee basis, and who were not members on June 30, 1971.

(p) Nothing in Laws 1973, Chapter 753 shall be interpreted to impair or revoke any option exercised under Laws 1963, Chapter 793.

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, exclusive of interest, and the total of the amounts paid by a member in lieu of such deductions and credited to his individual account in the retirement fund.

Subd. 5. [Repealed, 1971 c 106 s 40]

Subd. 6. Governmental subdivision. "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, the League of Minnesota ~~Municipalities~~, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provi-

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sions of sections 462.415 to 462.711; or any port authority organized pursuant to chapter 458; or any soil conservation district organized pursuant to chapter 40; or any hospital district organized or reorganized prior to July 1, 1975 pursuant to legislation enacted by the 1959 Legislature.

Subd. 7. **Member.** A member is a person who accepts employment as a "public employee" and remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; provided, however, (1) that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but such option, once exercised, may not be withdrawn during the incumbency of such person in office; (2) that any member who is appointed by the governor to be a state department head and elects pursuant to section 352.021, subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association. Membership in the retirement association of any person shall terminate upon his ceasing to be a "public employee."

Subd. 8. MS 1953 [Repealed, 1957 c 935 s 27]

Subd. 8. **Association.** "Association" means the public employees retirement association.

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

Subd. 10. **Salary.** "Salary" means the periodical compensation of any public employee, before deductions for deferred compensation or supplemental retirement plans, and also means "wages" and includes net income from fees. Lump sum annual leave payments and annual leave payments made after termination of public service shall not be deemed to be salary. Prior to the time that all sick leave has been used amounts paid to an employee, under a disability insurance policy where the employer paid the premiums, shall be considered salary; after all such sick leave has been used, such payment shall not be considered salary. Worker's compensation payments are not salary.

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

Subd. 12. MS 1949 [Repealed, 1953 c 78 s 18]

Subd. 12. **Temporary layoff.** "Temporary layoff" or "seasonal leave of absence" mean a suspension of public employment for a period not exceeding three and one-half months in any calendar year, by action of the employing governmental subdivision evidenced by appropriate record of the employer and promptly transmitted to the association.

Subd. 13. [Repealed, 1963 c 641 s 38]

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, provided such child is (a) under the age of 18, (b) age 18 through 21 and a full time student, and in either case unmarried and dependent for more than one-half of his support upon such member at the time of death and for not less than 90 days prior thereto; provided, that effective retroactively to April 30, 1970 the child of a deceased member, who at the time of his death was receiving total and permanent disability benefits pursuant to section 353.33, shall be deemed dependent if he was dependent upon the decedent for more than one-half of his support during the 90 days prior to the decedent's becoming totally and permanently disabled, except that no payment in behalf of such a dependent child shall commence prior to July 1, 1971. 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. It also means any dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency aforesaid and the dependency of the child hereunder shall date from the decree of adoption.

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

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(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which he later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay or temporary layoff, during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on his average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while he was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence or temporary layoff; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay or temporary layoff, or for any portion thereof, he shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence or temporary layoff terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence or temporary layoff to the date payment is made.

(4) Any period during which a member is on an authorized sick leave of absence, with or without pay, an authorized seasonal leave of absence, or an authorized temporary layoff.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon his salary at the date of return from military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, 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. Such member 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.

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 governmental 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.

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 which is a period of at least one year.

Subd. 20. Dependent spouse. "Dependent spouse" means the unremarried spouse of a deceased member who was living with and dependent for more than one-half of support upon the member at the time of death, or at the time the member became totally and permanently disabled.

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Subd. 21. [Repealed, 1971 c 106 s 40]

Subd. 22. [Repealed, 1971 c 106 s 40]

Subd. 23. **Retirement annuity.** "Retirement annuity" means the amount paid or payable by the fund to a former member after retirement.

Subd. 24. **Optional annuity.** "Optional annuity" means the allowance paid or payable by the fund to the designated optional annuity beneficiary of a member or former member, pursuant to an optional annuity form selected at or before retirement, or to the spouse of a deceased member under section 353.32, subdivision 1a.

Subd. 25. [Repealed, 1973 c 753 s 85]

Subd. 26. [Repealed, 1971 c 106 s 40]

Subd. 27. **Benefit.** "Benefit" means a monthly survivor benefit paid or payable by the fund to a surviving dependent spouse or a dependent child and also includes a monthly disability benefit paid or payable by the fund to a member who is totally and permanently 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; but if there is not a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement, no rights shall accrue thereunder and retirement shall not be accomplished thereby.

Subd. 29. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member in writing, filed with the association, to receive a refund of the balance of his accumulated deductions after death.

Subd. 30. **Designated optional annuity beneficiary.** "Designated optional annuity beneficiary" means the person designated by a former member to receive a joint and survivor annuity or a modified joint and survivor annuity.

Subd. 31. **Leave of absence.** "Leave of absence" means any period during which a member is duly authorized by his employer to refrain from active employment, with or without pay, evidenced by appropriate record of the employer and promptly transmitted to the association.

Subd. 32. **Coordinated member.** "Coordinated member" means any public employee, including any public hospital employee, covered by any agreement or modification made between the state and the secretary of health, education and welfare, making the provisions of the federal old age, survivors and disability insurance act applicable to such member.

Subd. 33. **Basic member.** "Basic member" means any public employee, including any public hospital employee, not covered by any agreement or modification made between the state and the secretary of health, education and welfare.

[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; 1963 c 440 s 1; 1963 c 641 s 3-12; 1965 c 104 s 1; 1965 c 880 s 1,2; Ex1967 c 26 s 1; Ex1967 c 37 s 1; 1969 c 940 s 1,2; 1971 c 106 s 1-8; 1971 c 503 s 1,2; 1973 c 123 art 5 s 7; 1973 c 753 s 3-18; 1974 c 229 s 1-8; 1975 c 102 s 1-3; 1975 c 359 s 23; 1976 c 329 s 12-15] (254-23)

353.015 [Repealed, 1973 c 753 s 85]

353.016 ASSOCIATION OF MINNESOTA COUNTIES EMPLOYEES. Subdivision 1. From and after July 1, 1974, employees of the Association of Minnesota Counties, hereinafter referred to as the association, shall become members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. An employee of the association shall pay contributions and have his rights determined under the law applicable to "coordinated" public employees retirement association members.

[1974 c 229 s 23]

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353.017 EMPLOYEES OF LABOR ORGANIZATIONS. Subdivision 1. **Qualifications.** A former member of the association who is an employee of a labor organization that represents public employees who are association members may elect pursuant to subdivision 2 to be a coordinated member with respect to his service with such labor organization unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. **Election.** A person described in subdivision 1 will be covered by the association if written election to be covered is delivered to the board before July 1, 1976 or within 30 days of being employed by such labor organization, whichever is later.

Subd. 3. **Contributions.** The employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein in accord with this chapter; provided, however, the employer, labor organization, may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the public employees retirement association pursuant to section 353.27, subdivisions 4, 7, 10, 11, and 12.

Subd. 4. **Purchase of prior service credit.** Any former member who elects membership pursuant to this section shall be allowed to make payment for service rendered prior to July 1, 1975 in a labor organization designated in subdivision 1 provided the organization makes satisfactory certification of such service. Payment shall be limited to five years of service beginning with the service last rendered and shall include all employee, employer and additional employer contributions at the rates in effect when the service was rendered plus interest at the rate of six percent per annum from the year of purchase to the date payment is made. Payment must be made in one lump sum prior to July 1, 1980 or prior to retirement, whichever is earlier, and no allowable service with respect to such payment shall be credited to the employee's account until payment is received in the public employees retirement association office.

Subd. 5. **Board membership excluded.** Persons who become association members pursuant to this section shall not be eligible for election to the board of trustees.

[1975 c 102 s 4]

353.018 METROPOLITAN INTER-COUNTY COUNCIL EMPLOYEES. From and after July 1, 1975, employees of the metropolitan inter-county council, hereinafter referred to as the council, shall become coordinated members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b, and the council shall be deemed to be a governmental subdivision for the purpose of this chapter.

[1975 c 190 s 1]

353.019 MINNESOTA MUNICIPAL UTILITIES ASSOCIATION EMPLOYEES; COORDINATED MEMBERS OF PERA. Subdivision 1. From and after July 1, 1976, employees of the Minnesota Municipal Utilities Association, hereinafter referred to as the association, shall become coordinated members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b, and the association shall be deemed to be a governmental subdivision for purposes of this chapter.

Subd. 2. A person who becomes a member of the public employees retirement association pursuant to subdivision 1 may purchase prior service credit with respect to full time employment with the association subsequent to October 19, 1975 by (a) paying to the public employees retirement association prior to August 1, 1976 an employee contribution in an amount equal to four percent of his or her salary at the time the prior service was rendered, as certified by the association, plus interest at the rate of six percent per annum; (b) the member at the same time shall pay additionally an amount equal to five and one-half percent of salary at the time the prior service was rendered, plus interest at the rate of six percent per annum; provided the association may, in its sole discretion, for all employees included hereunder, pay the public employees retirement association the obligation under (b).

[1976 c 329 s 16]

353.02 [Repealed, 1957 c 935 s 27]

353.03 BOARD OF TRUSTEES. Subdivision 1. **Management; composition; election.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 14 members, who shall be known as the board of trustees. This board shall consist of three trustees, one of whom shall be designated by each of the following associations, Minnesota school boards association, League of Minnesota Municipalities, and Association of Minnesota Counties; nine trustees, who shall be elected from the membership by the members of the retirement association except members of the police and fire fund; one trustee who shall be a retired annuitant elected by other annuitants; and one trustee who is a member of the police and fire fund elected by the membership of the police and fire fund. Elected trustees shall hold office for a term of four years. For seven days beginning December 1 of each year, except 1974 and every fourth year thereafter, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. The candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund, a retired annuitant candidate, a nominating petition signed by 25 or more such annuitants, and a police and fire fund candidate, a nominating petition signed by 25 or more members of such fund. No nominee may withdraw his name from nomination after December 15. Candidates shall file at large for all seats vacant at the forthcoming election. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members and annuitants ballots listing the candidates, the number of positions to be filled and blank lines for write-in votes. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. All terms expire on January 31 of the fourth year, and the position shall remain vacant until the newly elected member is qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret. The elections shall be supervised by the secretary of state. 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 subdivisions which aided in financing it and the public employees who are its beneficiaries.

Subd. 1a. **Vacancy, how filled.** Any vacancy on the board caused by death, resignation, or removal of any member so elected shall be filled by the board for the unexpired portion of the term in which the vacancy occurs.

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. 2a. **Extension of terms.** Notwithstanding the provisions of subdivision 1, the terms of office of all board members shall be extended until the date of the board election held in the year 1977. A board election shall be held prior to October 1, 1977.

Subd. 3. **Officers; employees; bylaws.** The board shall elect a chairman and vice-chairman, and shall appoint an executive director and other employees and may adopt bylaws, and procure other services as it may reasonably deem necessary and fix their compensation subject to subdivision 2 hereof. Except in subdivision 3a, whenever the terms "secretary", "secretary of the board" or "secretary of the board of trustees" appear in this chapter the revisor of statutes is herein directed to substitute therefor, "executive director".

Subd. 3a. **Duties and powers of the executive director.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. He shall act as adviser to the board on all matters pertaining to the association. He shall also act as the secretary of the board. It is the duty of the executive director and he has the power to:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this chapter;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

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(4) Designate an assistant director with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter, and with the approval of the board fix their compensation;

(5) Organize the work of the association as he deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe;

(6) With the approval of the board, contract for actuarial services, professional management services, and consulting services as may be necessary and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. Professional management services may not be contracted for more often than once in every six years. Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

(7) With the approval of the board provide inservice training for all employees of the association;

(8) Make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in this chapter;

(9) Determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;

(10) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the association;

(11) Prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by chapter 356;

(12) With the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Subd. 4. Offices. The commissioner of administration shall make provision for suitable office space in the state capitol or other state office buildings, or at such other location in St. Paul as he shall determine for the use of the board of trustees and its executive director. The commissioner shall give the board at least four months notice for any proposed removal from their present location. Any and all rental charges shall be paid by the trustees from the public employees retirement fund.

Subd. 5. Application of laws. Laws applicable to state agencies and agencies with statewide jurisdiction shall not be construed to apply to the association unless such laws make specific reference to this subdivision; provided, however, the applicable provisions of chapters 355 and 356 shall apply to the association.

[1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16; 1959 c 650 s 8,58; 1963 c 641 s 13; 1967 c 641 s 1; 1969 c 940 s 3; 1971 c 106 s 10,11; 1973 c 753 s 19,20; 1974 c 229 s 9; 1975 c 102 s 5-8; 1976 c 329 s 17,18] (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. 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 executive director a detailed statement of all amounts so received and credited by him to the fund. He shall pay out the fund only on warrants issued by the commissioner of finance, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the secretary of the state board of investment.

[1931 c 307 s 5; 1959 c 650 s 58; 1971 c 106 s 12; 1974 c 229 s 10; 1975 c 102 s 6] (254-27)

353.06 STATE BOARD OF INVESTMENT TO INVEST FUNDS. The executive director 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. Assets from the public employees retirement fund shall be transferred to the Minnesota adjustable fixed benefit fund as provided in section 11.25. The state board of investment shall thereupon invest and reinvest the sum so certified, or transferred, 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 provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, 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; 1965 c 305 s 5; 1973 c 753 s 21; 1975 c 102 s 6] (254-28)

353.07 [Repealed, 1973 c 753 s 85]

353.08 LEGAL ADVISER, ATTORNEY GENERAL; VENUE. 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 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. The venue of all actions against and by the public employees retirement association shall be Ramsey county.

[1931 c 307 s 8; 1933 c 374 s 1; 1959 c 650 s 58; 1973 c 753 s 22; 1975 c 102 s 9] (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 [Repealed, 1973 c 753 s 85]

353.14 BENEFITS FROM OTHER FUNDS. No annuity or benefit provided by this chapter shall be affected, diminished, or impaired by any pension, benefit, or annuity which any member or his survivor is entitled to receive from a tax supported public retirement system authorized by any other law, for different service for which he is entitled to receive benefit or annuity from the public employees retirement association.

[1963 c 641 s 1; 1973 c 753 s 23]

353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS AND TAXATION. No money, annuity, or benefit provided for in this chapter is assignable or subject to a power of attorney, execution, levy, attachment, garnishment, or legal process, including actions for divorce, separate maintenance, and child support, 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 association may pay an annuity, benefit or refund to a trust company, 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 member, the association may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with his spouse. The association may prescribe the conditions under which such payment will be made. If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabled, or survivor upon such terms as the executive director may prescribe.

[1931 c 307 s 18; 1955 c 815 s 9; 1971 c 789 s 5; 1973 c 753 s 24; 1975 c 102 s 6,10; 1976 c 329 s 19] (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 ac-

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counts of the association and the retirement fund shall be examined and audited annually, if funds and personnel permit, by the legislative auditor 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 section 16A.125, 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; 1971 c 106 s 15; 1974 c 229 s 11] (254-41)

353.17 [Repealed, 1971 c 106 s 40]

353.18 RULES AND 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, and such determination shall not be disturbed unless found to be arbitrary and capricious.

[1931 c 307 s 22; 1941 c 285 s 9; 1959 c 650 s 58; 1973 c 753 s 25] (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, 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 gross misdemeanor.

[1931 c 307 s 23; 1959 c 650 s 58; 1973 c 753 s 26] (254-45)

353.20 [Repealed, 1955 c 815 s 12]

353.21 [Repealed, 1957 c 935 s 27]

353.26 Subdivision 1. [Repealed, 1973 c 753 s 85]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

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

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

353.27 PUBLIC EMPLOYEES RETIREMENT FUND. Subdivision 1. **Income; disbursements.** There is a special fund known as the "Public Employees Retirement Fund", the "retirement fund", or the "fund", which shall include all the assets of the association. This fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there is appropriated the payments authorized by this chapter in the amounts and at such time provided herein, including the expenses of administering the fund, and including the proper share of the Minnesota adjustable fixed benefit fund.

Subd. 2. **Employee contribution.** The employee contribution shall be an amount (a) for a "basic member" equal to eight percent of total salary; and (b) for a "coordinated member" equal to four percent of total salary. These contributions shall be made by deduction from salary in the manner provided in subdivision 4. 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 total salary received from all sources.

Subd. 3. **Employer contribution.** The employer contribution shall be an amount equal to the employee contribution under subdivision 2. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 3a. **Additional employer contribution.** An additional employer contribution shall be made equal to (a) two and one-half percent of the total salary of each "basic member"; and (b) one and one-half percent of the total salary of each "coordinated member." These contributions shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 4. **Employers reporting requirements; contributions; member status.** The head of each department 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 de-

ducted from such salaries, and at the same time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be remitted within 15 days thereafter to the executive director. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the board of trustees, or in lieu thereof a carbon or duplicate copy of departmental payroll abstract, showing (a) the legal names and the association membership numbers, listed in alphabetical or association membership number sequence, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "death" or "retirement"; and (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "sick leave." Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the board, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees for prompt submission to the association. The employers shall furnish such additional reports or punch cards as may be requested by the association executive director.

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1971 c 106 s 40]

Subd. 7. Adjustment for erroneous receipts or disbursements. (1) Erroneous deductions. Any deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association shall be refunded to the employee; and the employer contribution and the additional employer contribution, if any, for the erroneous employee contribution shall be refunded to the employer, provided, however, the association and the state social security agency may make proper adjustments of moneys taken as employee and employer deductions.

(2) Erroneous disbursement. In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution.

Subd. 8. District court reporters; salary deductions. 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. 9. Fee officers; contributions; obligations of employers. Any appointed or elected officer of a governmental subdivision who was or is a "public employee" within the meaning of section 353.01 and was or is a member of the fund and whose salary was or is paid in whole or in part from revenue derived by fees and assessments, shall pay his employee contribution in the amount, at the time, and in the manner provided in subdivisions 2 and 4. The employer contribution as provided in subdivision 3, and the additional employer contribution as provided in subdivision 3a, and section 353.36, subdivision 2a, with respect to such service shall be paid by the governmental subdivision. This subdivision shall have both retroactive and prospective application as to all such members; and every employing governmental subdivision is deemed liable, retroactively and prospectively, for all employer and additional employer contributions for every such member in its employ. Delinquencies under this section shall be governed in all respects by section 353.28.

Subd. 10. Employers; furnish copies of payroll abstracts. The head of each department is required to furnish the executive director with a carbon or duplicate copy of the departmental payroll abstracts for the last pay period during the months of January and July, respectively, in each year. It shall be the duty of said executive director to check the copies of all such payroll abstracts against the membership records of the association to ascertain whether or not any omissions have been made by any department head in the reporting of any new public employees for membership.

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Subd. 11. **Employers; required to furnish requested information.** All governmental subdivisions shall furnish promptly such other information relative to the employment status of all employees or former employees, including but not limited to payroll abstracts pertaining to all past and present employees, as may be requested by the association or its executive director, including schedules of salaries applicable to various categories of employment. In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any employee or former employee for any period as may be requested by the association or its executive director. Should the association receive such schedules of estimated earnings, the executive director is hereby authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the retirement fund. If estimates are not furnished by the employer pursuant to the request of the association or its executive director, the association may estimate the obligations of the employee and employer to the retirement fund based upon such records as are in its possession. Where payroll abstracts have been lost or destroyed, the governmental agency need not furnish any information pertaining to employment prior to July 1, 1963. The association shall make no estimate of any obligation of any employee, former employee, or employer covering employment prior to July 1, 1963.

Subd. 12. **Omitted salary deductions; obligations.** In the case of omission of required deductions from salary of an employee, past due for a period of 60 days or less, the head of the department shall deduct from the employee's next salary payment and forthwith remit to the executive director the amount of the employee contribution delinquency, with cumulative interest thereon at the rate of six percent per annum, compounded annually, from the date or dates each delinquent employee contribution was first payable, such interest to be paid by the employer. To the extent that any such omitted required deductions are not paid by the employee, they shall constitute a liability of the governmental subdivision which failed to make said required deductions, with interest thereon as hereinbefore specified. After July 1, 1973, any such omitted required deductions, past due for a period in excess of 60 days, shall become the sole obligation of the governmental subdivision from the time such deductions were first payable, together with interest thereon as hereinbefore specified. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest thereon at the rate of six percent compounded annually from the date they were first payable, shall be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer. Unless otherwise indicated, this subdivision shall have both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due hereunder. An action for the recovery of delinquent employee and employer contributions together with interest thereon shall not be subject to any statutory provision which would otherwise limit the time within which such an action may be commenced.

Subd. 13. **Certain warrants canceled.** Any warrant payable from the retirement fund remaining unpaid for a period of six years, shall be canceled into the retirement fund and not into the general fund.

[1957 c 935 s 7; 1959 c 650 s 12,37,58; 1961 c 744 s 1; Ex1961 c 50 s 1; 1963 c 641 s 18; 1965 c 714 s 1-3; 1965 c 880 s 3; Ex1967 c 53 s 1-3; 1969 c 267 s 2; 1969 c 940 s 5; 1971 c 106 s 16,17; 1973 c 35 s 55; 1973 c 753 s 27-33; 1974 c 229 s 12,13; 1975 c 102 s 6; 1976 c 329 s 20]

353.271 PARTICIPATION IN MINNESOTA ADJUSTABLE FIXED BENEFIT FUND. Subdivision 1. **Authorization.** The public employees retirement association, including the police and fire fund, is hereby authorized to participate in the Minnesota adjustable fixed benefit fund. There shall be one general participation in the Minnesota adjustable fixed benefit fund for all purposes by the public employees retirement association.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) Effective July 1, 1973, for members retiring, the required reserves determined on a five percent interest assumption shall be transferred to the Minnesota adjustable fixed benefit fund as of the date of retirement.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11.25, subdivisions 12 and 13.

(3) Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1969 c 399 s 1; 1969 c 999 s 4; 1971 c 414 s 9; 1973 c 753 s 34,35]

353.272 INCREASE IN ANNUITIES AND BENEFITS. The retirement annuities authorized and in effect on June 30, 1973, shall be increased in the same ratio that the actuarially computed reserve for such annuities determined by using an interest assumption of three and one-half percent bears to the actuarially computed reserve for such annuities determined by using an interest assumption of five percent. The reserves upon which such increase shall be based shall be the actuarially determined reserve for annuities in effect at June 30, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of three and one-half percent and five percent. Such ratio of increase computed to the last full 1/100 of one percent shall be applied to annuities in effect on June 30, 1973, and shall begin to accrue July 1, 1973. Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1973 c 753 s 36]

353.28 FINANCING OF EMPLOYER CONTRIBUTIONS. Subdivision 1. Each governmental subdivision shall secure its employer contributions and its additional employer contributions and 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. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1973 c 753 s 85]

Subd. 5. Any amount due and payable pursuant to this section by a governmental subdivision on June 30, 1969, shall thereafter bear compound interest at the rate of six percent per year until paid. Any amount which becomes due and payable pursuant to this section on or after July 1, 1969, shall bear compound interest at the rate of six percent per year from the date due until the date paid.

Subd. 6. If the governmental subdivision fails to pay amounts due under this chapter, the executive director shall certify such amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due, the executive director may certify such amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. 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, town, or school district to levy taxes; the governmental subdivision concerned, if it is other than a school district, 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. 9. [Repealed, 1973 c 753 s 85]

Subd. 10. [Repealed, 1973 c 753 s 85]

Subd. 11. [Repealed, 1971 c 106 s 40]

[1957 c 935 s 8; 1959 c 650 s 45,46,58; 1961 c 744 s 2; Ex1961 c 50 s 2; Ex1967 c 59 s 1; 1969 c 267 s 3; 1971 c 106 s 18; Ex1971 c 31 art 20 s 11; 1973 c 123 art 5 s 7; 1973 c 753 s 37,38; 1975 c 102 s 6]

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353.29 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE. Subdivision 1. **Age and allowable service requirements.** Upon 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 is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Subd. 2. **Average salary.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of a member's highest salary upon which employee contributions were paid for any five successive years of allowable service.

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member", shall determine the amount of the "normal" retirement annuity.

Subd. 4. **Application for annuity.** Application for retirement annuity may be made by a member or by someone authorized to act in his behalf. Every application for retirement, in the form prescribed by the board of trustees, shall be substantiated in writing by proof of (a) age of the employee and (b) his public service, which shall be submitted by the employee and employer, respectively.

Subd. 5. [Repealed, 1959 c 650 s 57]

Subd. 6. **Retirement before eligibility for social security benefits.** Any "coordinated member" who retires before he is eligible for social security retirement benefits may elect to receive a retirement annuity from the association in an amount greater than the annuity computed on the basis of age at retirement, provided in subdivisions 2 and 3. This option shall be exercised by making application to the board of trustees. This greater amount shall be the actuarial equivalent of the "normal" retirement annuity computed on the basis of age at retirement. This greater amount shall be paid until the annuitant reaches the age of 62, at which time the payment from the association shall be reduced. The method of computing an annuity under this subdivision shall be determined by an approved actuary.

Subd. 7. **Annuities; accrual.** Except as to elected public officials, 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 shall be paid in equal monthly installments commencing one month thereafter, but no payment shall be made for the month, or any portion thereof, in which entitlement to such annuity has terminated; however, if an annuitant dies leaving a surviving spouse who is or will become eligible for monthly survivor benefits, such spouse shall be entitled to the payment of such annuity through the date of annuitant's death. Any annuity granted to an elective public official shall accrue on the day following expiration of his public office or right thereto, and his annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive for more than three months prior to that month in which application therefor shall be filed with the association.

Subd. 8. **Annuities; payment; evidence of receipt.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, during the first week of the next ensuing month. Evidence of receipt of every warrant issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association quarterly beginning with the June, 1975 payments, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the executive director thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the next ensuing month, the annuity or benefit to which he otherwise may be entitled.

[1957 c 935 s 9; 1959 c 650 s 13-16; 1963 c 639 s 1; 1965 c 714 s 4; 1965 c 880 s 4; Ex1967 c 53 s 4; 1971 c 106 s 19-21; 1973 c 753 s 39-42; 1974 c 229 s 14; 1975 c 102 s 6,11,12; 1976 c 329 s 21]

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353.30 ANNUITIES UPON RETIREMENT. Subdivision 1. Upon separation from public service 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 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. 1a. Any person who has attained the age of at least 62 years and who received credit for not less than 30 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, without any reduction in annuity by reason of such early retirement.

Subd. 1b. Any person with 30 years or more of allowable service credit who elects early retirement under subdivision 1, shall receive an annuity reduced by one-half of one percent for each month that such person is under age 62 at the time of retirement.

Subd. 2. [Repealed, 1971 c 106 s 40]

Subd. 3. The board of trustees shall establish optional annuities which shall take the form of 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. A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

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 association, 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, it may be increased prospectively to not more than the amount to which such person would have been entitled had he not waived any portion thereof.

[1957 c 935 s 10; 1959 c 650 s 17,18,58; 1971 c 106 s 22; 1973 c 753 s 43-45; 1976 c 329 s 22]

353.31 SURVIVOR BENEFITS. Subdivision 1. **Benefits for surviving spouse and dependent children; before retirement.** Upon the death of a "basic member" before retirement or upon the death of a "basic member" who was disabled and receiving disability benefits pursuant to section 353.33 at the time of his death who has had at least 18 months of credited allowable service, his surviving dependent spouse and dependent children, as defined in section 353.01, subdivisions 15 and 20, shall receive the monthly benefit provided below:

- (a) Surviving dependent spouse. .30 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding death
- (b) Each dependent child. 10 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding death

Payments for the benefit of any dependent child, as defined in section 353.01, subdivision 15, shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit for any one family shall not exceed \$450, and the minimum benefit per family shall not be less than 30 percent of the

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“basic member’s” said average salary, subject to the aforementioned maximum. 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 “basic member” whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision.

Under the terms of this subdivision there are no survivor benefits, as such, payable to the surviving spouse or dependent children of any deceased “coordinated member.”

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1973 c 753 s 85]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. **Accrual of benefits.** All benefits under this section and survivor benefits otherwise provided in this chapter when payable to persons qualifying therefor shall accrue on the first day following the death of a “basic member” or annuitant, whichever is applicable. No payment may be made (a) retroactively for more than 12 months prior to that month in which the application is filed, or (b) for the month, or any portion thereof, in which entitlement to such benefits has terminated. This subdivision shall have retroactive effect to January 1, 1969.

Subd. 9. Every claim or demand for a survivor benefit or spouse’s annuity shall be initiated by written application in the manner and form prescribed by the board of trustees, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such survivor benefit or spouse’s annuity.

Subd. 10. [Repealed, 1973 c 753 s 85]

Subd. 11. The benefit rolls as they exist immediately prior to July 1, 1971 are approved and continued except for any instance when it may be subsequently determined eligibility to benefits may have been obtained by fraud or deception.

[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; 1963 c 641 s 19-21; 1965 c 880 s 5; Ex1967 c 26 s 2; 1969 c 858 s 1; 1969 c 940 s 6; 1971 c 106 s 23-25; 1973 c 753 s 46,47; 1974 c 229 s 15; 1975 c 102 s 13]

353.32 REFUNDS AFTER DEATH OF MEMBER OR FORMER MEMBER. Subdivision 1. **Before retirement.** If a member or former member who terminated public service after June 30, 1973, dies before retirement or before he has received any retirement annuity and no other payment of any kind is or may become payable to any person, a refund shall be paid to his designated beneficiary or, if there be none, to his surviving spouse, or, if none, to the legal representative of his estate. Such refund shall be in an amount equal to his accumulated deductions plus interest thereon at the rate of three and one-half percent per annum compounded annually less the sum of any disability or other benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits pursuant to section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 18 years may only be waived pursuant to an order of the district court.

Subd. 1a. **Surviving spouse optional annuity.** If a member who has attained the age of at least 58 years and has credit for not less than 20 years allowable service dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable pursuant to section 353.31, an annuity equal to the 50 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, and 1b. 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 contri-

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butions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Subd. 2. After retirement. If a former member dies after retirement and no payment of any kind is or may become payable to any person, including any deferred benefit or annuity, there shall be paid to the same succession of payees set forth in subdivision 1, a refund 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, without interest.

Subd. 3. Optional survivor annuity cases; designated beneficiary. 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 refund 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 said beneficiary should die before making application for such refund, the same shall be paid to the legal representative of the estate of the former member. The refunds 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. Lack, or death, of beneficiary. If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refund, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refund 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 353.34, subdivision 6.

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

Subd. 6. [Repealed, 1963 c 641 s 38]

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.

Subd. 8. [Repealed, 1971 c 106 s 40]

Subd. 9. Payment to a 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 refund and the amount of the refund does not exceed \$500, exclusive of interest, 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 annuity or disability benefit payable at the time of death of an annuitant or recipient of a disability benefit, which is payable to a beneficiary who is a minor, may be paid in the same manner. Such payment shall be a bar to recovery by any other person or persons.

[1957 c 935 s 12; 1959 c 646 s 2; 1959 c 650 s 42,48,58; 1963 c 641 s 22-24; 1969 c 940 s 7-9; 1971 c 106 s 26-28; 1973 c 35 s 56; 1973 c 753 s 48-52; 1974 c 229 s 16,17; 1975 c 102 s 14]

353.33 TOTAL AND PERMANENT DISABILITY BENEFITS. Subdivision 1. **Age, service and salary requirements.** After June 30, 1973 any member who becomes totally and permanently disabled before age 65 and after ten years of allowable ser-

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vice or after age 50 with five years of allowable service, whichever is sooner, 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; accrual of benefits. Every claim or demand for a total and permanent disability benefit shall be initiated by written application in the manner and form prescribed by the board of trustees, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such total and permanent disability benefit. A member or former member who became totally and permanently disabled during his period of membership may file his application for total and permanent disability benefits within three years next following termination of public service, but not thereafter. This benefit shall begin to accrue 90 days following the commencement of disability or 90 days preceding the filing of the application, whichever is later. If annual or sick leave is paid for more than the said 90 day period, the benefit 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, subdivisions 2 and 3. A "basic member" shall receive in addition 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 average salary as defined in section 353.29, subdivision 2, the disability benefits shall be reduced to an amount equal to said average salary.

Subd. 4. Procedure to determine eligibility. 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 totally and permanently disabled within the meaning of section 353.01, 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 worker's compensation law. The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable worker's compensation laws, after deduction of amount of attorney fees, authorized under applicable worker's compensation laws, paid by a disabled member.

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 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. 6a. **Medical adviser.** The executive officer of the state board of health or such other licensed physician on the staff of the state board of health as he may designate shall be the medical adviser of the executive director.

Subd. 6b. **Duties of the medical adviser.** The medical adviser shall designate licensed physicians to examine applicants for disability benefits. The medical adviser shall pass upon all medical reports based upon such examinations required to determine whether applicants are totally and permanently disabled as defined in section 353.01, subdivision 19, or disabled as defined in section 353.656, and shall investigate all health and medical statements and certificates by or on behalf of said applicants in connection with disability benefits, and shall report in writing to the executive director, his conclusions and recommendations on all matters referred to him.

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 higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed. No deductions for the retirement fund shall be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

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 except persons receiving benefits as provided in subdivision 7, 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. No person shall be entitled to receive disability benefits and a retirement annuity at the same time.

Subd. 10. [Repealed, 1973 c 753 s 85]

Subd. 11. **Retirement status at age 65.** No person shall be entitled to receive disability benefits and a 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 normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater. Any disabled person who becomes age 65 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973. A person who elects an annuity under section 353.29 may, prior to age 65, select an optional annuity pursuant to section 353.30, subdivision 3.

[1957 c 935 s 13; 1959 c 650 s 21,41; 1961 c 595 s 2; 1963 c 641 s 25; 1965 c 880 s 6; 1967 c 711 s 1; Ex1967 c 37 s 2,3; 1969 c 940 s 10; 1971 c 106 s 29,30; 1973 c 753 s 53-56; 1975 c 102 s 15-17; 1975 c 359 s 23; 1976 c 329 s 23-25]

353.34 TERMINATION OF PUBLIC SERVICE. Subdivision 1. **Refundment or deferred annuity.** Any member who ceases to be a public employee by reason of termination of public service, shall be entitled to a refundment of his accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. Application for refundment may not be made prior to date of termination of public service, and refund shall be paid within 120 days following receipt of such application, provided applicant has not again become a public employee required to be covered by the association.

Subd. 2. **Refund without interest.** Except as provided in subdivision 1, any person who ceases to be a public employee after June 30, 1973 shall receive a refund in an amount equal to his accumulated deductions without interest for the first three

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years of membership and thereafter accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of three and one-half percent per annum compounded annually after the third year of membership based on fiscal year balances.

Subd. 3. Deferred annuity; eligibility; computation. Any person with at least ten years of allowable service when termination of public service occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred annuity commencing at age 65, except that any person who terminates public service after June 30, 1973, may qualify for early retirement under section 353.30, subdivisions 1 and 1a. The deferred annuity shall be computed in the manner provided in section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service and shall be augmented as provided in section 353.71, subdivision 2. Such person may revoke this option at any time prior to the commencement of deferred annuity payments by making application for a refund. Such person shall be entitled to a refund of his accumulated deductions within 30 days following date of receipt of such application by the executive director of the association.

Subd. 4. [Repealed, 1971 c 106 s 40]

Subd. 5. Refundment generally unlimited. The right of refundment provided in this chapter, and laws amendatory thereof, is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.

Subd. 6. Additions to fund. The board of trustees may credit to the fund any moneys received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise. Refundable accumulated deductions of any former member, if unclaimed for a period of five years after separation from public service, shall be credited to a donations suspense account. The board of trustees may pay refunds of accumulated deductions, 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, such deductions shall be transferred to and credited to the retirement fund proper. In the event the former member should return to public service, the amount so credited to the retirement fund shall be restored to his individual account.

[1957 c 935 s 14; 1959 c 650 s 22-24,49; 1963 c 641 s 26-29; 1969 c 940 s 11; 1971 c 106 s 31; 1971 c 412 s 1; 1973 c 753 s 57-59; 1975 c 102 s 6; 1976 c 329 s 26]

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.

When any former member accepts a refund all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refund shall terminate and shall not again be restored until the former member acquires not less than 18 months allowable service credit subsequent to taking his last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at six percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid with interest at six percent per annum compounded annually.

[1957 c 935 s 15; 1959 c 650 s 38; 1963 c 641 s 30; 1971 c 106 s 32; 1973 c 753 s 60; 1976 c 329 s 27]

353.36 PURCHASES OF PRIOR SERVICE CREDIT. Subdivision 1. [Repealed, 1971 c 106 s 40]

Subd. 2. A person who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required minimum number of years of allowable service credit to qualify for an annuity, may apply for such annuity if otherwise qualified, and within 90 days thereafter purchase whatever period of said public service is necessary to bring his total allowable service credit to said minimum, provided that last service shall be purchased first. Such person may gain such allowable service credit by paying six percent of the salary covered under the law in effect at the time that such public service was performed, with interest thereon at the rate of six percent per annum compounded annually from the date first payable to the date payment is made, plus a matching amount, unless the employer agrees to pay said matching amount pursuant to subdivision 2a. An annuity shall accrue as provided in section 353.29, subdivision 7, but no annuity shall be paid until the applicant's payment is made in full for the prior public service; if said payment is not made within such 90 days, the application for retirement shall be void.

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Subd. 2a. **Matching payment; employer may assume.** Any employer may certify to the association that it assumes the matching payment under subdivision 2 with respect to all persons who exercise the option provided in subdivision 2 and pay such amount pursuant to section 353.28.

Subd. 2b. **Purchases of prior service credit; limited.** After June 30, 1973, no person shall be allowed to purchase prior public service credit, except as provided in subdivision 2.

Subd. 2c. **Refund of additional payments made on total salary.** Any member who elected to pay additional contributions and interest based on total salary received in excess of prior salary limitations may make application to the board of trustees for return of the total amount so paid, but not less than the total amount of such contributions and interest; provided, however, said amount shall be so returned without interest thereon. Any member who accepts a refund hereunder shall thereby relinquish all contributory credit with respect to payments which were made on total salary. No matching amount paid by the employer, or assumed by the employer pursuant to certification, shall be repaid.

Subd. 2d. **Payment time extension.** A member who mailed a request to the association to purchase prior service credit under Minnesota Statutes 1971, Section 353.36, Subdivision 2, which request was postmarked and dated not later than June 30, 1973, shall be allowed to purchase prior service credit under Minnesota Statutes 1971, Section 353.36, Subdivision 2, provided such request was not processed by the association and that payment is received in the association office by January 1, 1975. A certification by a governing body of a governmental subdivision that it assumed the employer obligation as allowed in Minnesota Statutes 1971, Section 353.36, Subdivision 2, shall remain in effect and a governing body that had not done so previously, may assume the obligation to pay said matching amount with respect to the employer obligation allowed hereunder.

Subd. 3. [Repealed, 1971 c 106 s 40]

Subd. 4. [Repealed, 1965 c 715 s 4]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. [Repealed, 1973 c 753 s 85]

Subd. 9. [Repealed, 1973 c 753 s 85]

Subd. 10. [Repealed, 1973 c 753 s 85]
[1957 c 935 s 16; 1959 c 650 s 25,58; 1965 c 715 s 1-3; 1967 c 687 s 1; 1969 c 999 s 3; 1971 c 106 s 33; 1973 c 753 s 61,62; 1974 c 229 s 18]

353.37 PUBLIC RE-EMPLOYMENT OF ANNUITANT; EFFECT ON ANNUITIES. Subdivision 1. The annuity of a person otherwise eligible therefor under this chapter shall be suspended if he re-enters and as long as he remains in public service as a non-elective employee of a governmental subdivision, if his earned compensation for such service exceeds \$3,000 in any calendar year. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall not apply to any months in which the annuitant is not actually employed in non-elective service in a position covered by this chapter. Any annuitant of the association, who is elected to public office after his retirement following 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. Upon proper showing by an annuitant that this ineligibility no longer exists, the monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to his retirement under this chapter does not increase or decrease any annuity 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.

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

[1957 c 935 s 17; 1959 c 650 s 26,58; Ex1961 c 87 s 1; 1963 c 641 s 31; 1963 c 853 s 1,2; 1967 c 711 s 2; 1971 c 412 s 2; 1973 c 753 s 63; 1975 c 102 s 18]

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353.38 RIGHTS LIMITED. Nothing done under the terms of this chapter 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 [Repealed, 1973 c 753 s 85]

353.40 [Repealed, 1974 c 229 s 25]

353.41 [Repealed, 1959 c 650 s 57]

353.42 [Repealed, 1963 c 641 s 38]

353.43 [Repealed, 1959 c 650 s 57]

353.44 Subdivision 1. [Repealed, 1973 c 753 s 85]

Subd. 2. [Repealed, 1963 c 641 s 38]

353.45 [Repealed, 1973 c 753 s 85]

353.46 SAVINGS CLAUSES. Subdivision 1. The rights of a person receiving an annuity or benefit under the law in effect on June 30, 1973, or prior thereto are herein preserved.

Subd. 2. The right of a deferred annuitant or other former member to receive an annuity under the law in effect at the time such person terminated public service is herein preserved; provided, however, the provisions of section 353.71, subdivision 2, as amended by Laws 1973, Chapter 753 shall apply to a deferred annuitant or other former member who first begins receiving an annuity after July 1, 1973.

Subd. 3. The rights of a member who qualifies under Laws 1959, Chapter 650, Section 29, are herein preserved.

Subd. 4. Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, shall be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973.

Subd. 5. [Repealed, 1973 c 753 s 85]

[1957 c 935 s 26; 1959 c 650 s 27; Ex1961 c 87 s 2; 1965 c 814 s 1,3; 1971 c 106 s 36; 1973 c 753 s 65-68; 1975 c 102 s 19]

353.51 [Repealed, 1973 c 753 s 85]

353.52 [Repealed, 1973 c 753 s 85]

353.53 [Repealed, 1973 c 753 s 85]

353.54 [Repealed, 1973 c 753 s 85]

353.55 [Repealed, 1973 c 753 s 85]

353.56 [Repealed, 1973 c 753 s 85]

353.57 [Repealed, 1973 c 753 s 85]

353.58 [Repealed, 1973 c 753 s 85]

353.59 [Repealed, 1973 c 753 s 85]

353.591 [Repealed, 1973 c 753 s 85]

353.60 [Repealed, 1973 c 753 s 85]

353.61 [Repealed, 1973 c 753 s 85]

353.62 [Repealed, 1971 c 106 s 40]

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 contribu-

tions.

[1959 c 650 s 31]

353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIRE FIGHTER. Subdivision 1. Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or fire fighter, shall as long as he remains in either position, be deemed to continue his membership in said fund. Any other 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 governmental 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 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; 1963 c 641 s 34]

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 shall be an amount equal to eight percent of the total salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. 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 total salary received from all sources.

Subd. 3. The employer contribution shall be an amount equal to 12 percent of the total salary of every member. This contribution shall be made from funds available to the employing subdivision by the means and 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. [Repealed, 1973 c 753 s 85]

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 an-

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nuities herein provided upon retirement shall be paid from said fund.

[1959 c 650 s 33; 1965 c 714 s 6-8; Ex1967 c 53 s 6-8; 1971 c 297 s 5; 1973 c 753 s 69,70]

353.651 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE. Subdivision 1. **Age and allowable service requirements.** Upon separation from public service, any police officer or fire fighter member who has attained the age of at least 55 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Subd. 2. **Average salary.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a police officer or fire fighter upon which employee contributions were paid for any five successive years of allowable service.

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two and one-half percent per year of allowable service for the first 20 years and two percent per year of allowable service thereafter, shall determine the amount of the "normal" retirement annuity; provided, however, if the annuity calculated hereunder is less than the annuity calculated under the law in effect on June 30, 1973, this latter amount shall be the "normal" annuity. If the member has earned allowable service for 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.

9x [1973 c 753 s 71; 1974 c 229 s 19]

~~353.654~~ [Repealed, 1973 c 753 s 85]

~~353.655~~ [Repealed, 1973 c 753 s 85]

353.656 DISABILITY BENEFITS. Subdivision 1. **In line of duty; computation of benefits.** Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform his duties as a police officer or fire fighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render him physically or mentally unable to perform his duties as a police officer or fire fighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional two percent of said "average salary" for each year of service in excess of 20. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Subd. 2. **Benefits paid under worker's compensation law.** If a member, as described in subdivision 1, is injured under circumstances which entitle him to receive benefits under the worker's compensation law, he shall receive the same benefits as provided in subdivision 1, less the amount paid to him in weekly benefits under the worker's compensation law, after deduction of amount of attorney fees, authorized under applicable worker's compensation laws, paid by a disabilitant.

Subd. 3. After June 30, 1973, any member who becomes disabled after not less than five years of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or fire fighter, and by reason thereof the member is unable to perform his duties, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of his disability and the benefit were paid pursuant to section 353.651. Should disability under this clause occur after five but in less than ten years allowable service, the disability benefit shall be the same as though the member had at least ten years service.

Subd. 4. No member shall receive any disability benefit payment when there remains to his credit unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of his salary and should such member 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 association 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 sal-

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ary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

Subd. 5. No disability benefit payment shall be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when any such benefits are being paid, the association shall have the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

Subd. 6. All disability benefits payable under this section shall terminate when the disabled fireman or police officer becomes 55 years of age. Thereafter, retirement benefits shall be paid to the disabled fireman or police officer in the same amount as the disability benefits which he was previously receiving. Any disabled person who becomes age 55 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973. Prior to reaching age 55, a disabled person may select an optional annuity pursuant to section 353.30, subdivision 3.

[1971 c 297 s 3; 1973 c 753 s 72-74; 1975 c 102 s 20,21; 1975 c 359 s 23; 1976 c 329 s 28]

353.657 SURVIVOR BENEFITS. Subdivision 1. In the event any member of the police and fire fund shall die from any cause, the association shall grant survivor benefits to any dependent spouse who was residing with him at the time of his death and who was married to him for a period of at least one year, and to a dependent child or children, unmarried and under the age of 18 years. The spouse and child or children shall be entitled to monthly benefits as provided in the following subdivisions.

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to 30 percent of the member's average monthly salary earned as a police officer or fire fighter on which employee contributions were paid over the last full six months of allowable service preceding death.

Subd. 2a. If a member who has attained the age of at least 55 years and has credit for not less than 20 years allowable service dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2, an annuity equal to the 50 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. 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 annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average monthly salary earned as a police officer or fire fighter on which employee contributions were paid over the last full six months of allowable service preceding death. Payments for the benefit of any qualified 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 for any one family shall not exceed \$450, and the minimum benefit per family shall not be less than 30 percent of the member's said average salary, subject to the aforementioned maximum.

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

[1971 c 297 s 4; 1973 c 753 s 75-77; 1974 c 229 s 20; 1975 c 102 s 22; 1975 c 359 s 23]

353.66 [Repealed, 1973 c 753 s 85]

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353.67 APPLICATION FOR ANNUITY. Application for retirement annuity may be made by a member or by someone authorized to act in his behalf.

[1959 c 650 s 35; 1965 c 880 s 9]

353.68 SCOPE AND APPLICATION. Subdivision 1. The general provisions of this chapter 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. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

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

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. [Repealed, 1973 c 753 s 85]

Subd. 9. [Repealed, 1973 c 753 s 85]

[1959 c 650 s 36; 1961 c 743 s 3; 1963 c 639 s 2; 1963 c 641 s 35-37; 1963 c 659 s 1; 1965 c 814 s 2; Ex1967 c 37 s 4; 1969 c 940 s 15; 1971 c 412 s 3; 1973 c 753 s 78]

353.69 OFFICERS OR EMPLOYEES OF NONCOVERED MUNICIPALITIES; OPTIONAL MEMBERSHIP. 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. Except for the repayment of refunds pursuant to section 353.35, this option applies to future service only. Any person desiring to exercise this option shall file application with the association. No such person shall be entitled to allowable service credit under this chapter, 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; 1965 c 714 s 10; Ex1967 c 53 s 10; 1971 c 106 s 39; 1973 c 753 s 79]

353.70 [Repealed, 1963 c 641 s 38]

353.71 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM; DEFERRED ANNUITY; AUGMENTATION. Subdivision 1. **Eligibility.** Any person who has been a member of the public employees retirement association, or the Minnesota state retirement system, or the teachers retirement association, or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for policemen or firemen as referred to in sections 69.71 and 69.771, shall be entitled when qualified to an annuity from each fund if his total allowable service in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that he has not taken a refund from any one of these funds since his membership in that association or system last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years of allowable service in the respective association or system shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years.

Subd. 2. **Deferred annuity computation; augmentation.** The deferred annuity, if any, accruing under subdivision 1, or sections 353.34, subdivision 3, and 353.68, subdivision 4, shall be computed in the manner provided in said sections, on the basis of allowable service prior to termination of public service and augmented as provided herein. The required reserves applicable to a deferred annuity, or to an annuity for which a former member was eligible but had not applied, or to any deferred segment of an annuity shall be determined as of the date the annuity begins to accrue and shall be augmented by interest at the rate of five percent per annum compounded annually

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from the first day of the month following the month in which the former member ceased to be a public employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. 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 public service for more than two years. If a person repays a refund, the service restored thereby shall be considered as continuous with the next period of service for which the employee has credit with this association. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. This section shall not reduce the annuity otherwise payable under this chapter. This subdivision shall apply to deferred annuitants of record on July 1, 1971 and to employees who thereafter become deferred annuitants; it shall also apply from July 1, 1971 to former members who make application for an annuity after July 1, 1973.

Subd. 3. Deferred annuity; postponed payment. No deferred annuity shall commence to be paid from the public employees retirement fund during the time the former member is working and accruing service credit as a member of any public retirement system referred to in subdivision 1.

Subd. 4. Repayment of refund. Any person who has received a refund from the public employees retirement fund and who is a member of any public retirement system referred to in subdivision 1, may repay such refund to the public employees retirement fund as provided in section 353.35.

Subd. 5. Early retirement. The requirements and provisions for retirement prior to age 65 contained in section 353.30, subdivisions 1 and 1a shall also apply to a person fulfilling such requirements with a combination of service as provided in subdivision 1.

[1963 c 641 s 2; 1969 c 940 s 16-18; 1971 c 412 s 4-7; 1973 c 35 s 58; 1973 c 753 s 80,82,83; 1974 c 229 s 21; 1975 c 102 s 23]

NOTE: See also sections 352.72 and 354.60.

353.74 CERTAIN SURVIVOR BENEFITS. The surviving spouse of a former member of the public employees retirement association for not less than 18 years who was separated from the association by becoming a member of the judicial branch of the state government shall receive the same benefits as if the former member was a member of the public employees retirement association on the date of his death. This section shall only apply when neither the former member nor his survivor have received any refundment of the accumulated salary deduction of the former member.

[1963 c 520 s 1]

353.75 CERTAIN RETIREMENT ANNUITY BENEFITS. Any public employee who retired on or after December 31, 1964, and who (1) has attained the age of 65 years, and who (2) had more than 22 years of continuous service in his first public employment, (3) had more than five years of subsequent continuous service in public employment before his retirement, (4) and has made contributions to the public employees retirement fund during all his public employment, and who (5) has not withdrawn any of his contributions to the public employees retirement fund, is entitled to receive a retirement annuity from May 14, 1965, based upon the sum total of such periods of public employment in like manner as if his public employment had been continuous.

[1965 c 432 s 1]

- 353.76** MS 1969 [Special]
- 353.77** MS 1969 [Special]
- 353.78** MS 1969 [Special]
- 353.79** MS 1969 [Special]
- 353.80** MS 1969 [Special]
- 353.81** MS 1969 [Special]
- 353.82** MS 1969 [Special]

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PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.85

353.83 ADDITIONAL PAYMENTS TO CERTAIN ANNUITANTS. Payments of retirement annuities pursuant to this chapter, to annuitants who (a) retired prior to July 1, 1962, (b) had at least 20 years of allowable service credit in the public employees retirement association upon their termination of public employment, and (c) receive annuities of less than \$200 per month shall, retroactive to July 1, 1967, be supplemented by additional payments by the public employees retirement association from moneys in the general fund of the state of Minnesota in the amount of \$15 per month, provided that such annuitants have not previously qualified for the additional payments pursuant to this section, and provided further that in no case shall the annuities plus the additional payments exceed \$200 per month. Moneys necessary to pay the supplemental benefit provided by this section are hereby annually appropriated from the said general fund. These additional payments shall be made in the same manner and at the same time retirement annuities are paid and shall be included in the warrants on which the annuities are so paid. The supplemental payment herein provided shall be excluded from the computation of any monthly survivor benefit or optional annuity which may become due and payable to any person following the death of an annuitant who, during his lifetime, received a benefit pursuant to this section. If an annuitant entitled to receive additional payment under this section should die before such retroactive payment is received, payment shall be made upon demand to his designated beneficiary in an amount equal to his accumulated benefit from July 1, 1967, to the date of his death, without interest.

[1967 c 688 s 1; 1969 c 399 s 1; 1969 c 998 s 1]

353.84 INCREASE IN BENEFITS. All survivors and disabilitants who were receiving benefits on June 30, 1973, shall receive from the appropriate special fund, a 25 percent increase in such benefits accruing from January 1, 1974; provided, that survivors of members who died prior to July 1, 1973 and will not become eligible to receive benefits until after June 30, 1973, shall receive the 25 percent increase in such benefits when the benefits begin to accrue. Such increases shall not be affected by any maximum limitations otherwise provided in this chapter.

Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1973 c 753 s 84]

353.85 OPTIONAL BENEFITS TO SURVIVORS OF MEMBERS WHO DIED AFTER JUNE 15, 1973. A qualified survivor of a "basic" member or a member of the police and fire fund where such member died after June 15, 1973 and was entitled to salary or vacation pay after June 30, 1973 shall in lieu of all other association survivor benefits be entitled to the survivor benefits payable under the law in effect on July 1, 1973.

[1974 c 229 s 22]