

## CHAPTER 352C

## ELECTIVE STATE OFFICERS RETIREMENT

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**352C.01 LEGISLATIVE FINDING AND INTENT.** The legislature finds that service to Minnesota in the capacity of a constitutional officer or commissioner as defined in section 352C.021 constitutes a unique contribution to the state and that such service is dissimilar to any other public employment. The legislature further finds that service as a constitutional officer or commissioner for a period of eight years or longer deprives the individual so serving of normal opportunities to establish retirement benefits in his usual vocational pursuit and justifies adoption of special retirement provisions. The provisions of this chapter are intended by the legislature to reflect the unique nature of service as a constitutional officer or commissioner and to have due regard for the unusual disruption of normal retirement planning that such service entails.

[ 1967 c 700 s 1; 1978 c 796 s 12 ]

**352C.02** [ Repealed, 1978 c 796 s 46 ]

**352C.021 DEFINITIONS.** Subdivision 1. **Terms.** For purposes of this chapter, the following terms shall have the meanings given to them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **Constitutional officer.** "Constitutional officer" means a person who was duly elected and qualified and is serving as governor, lieutenant governor, attorney general, secretary of state, state auditor or state treasurer of the state of Minnesota.

Subd. 3. **Commissioner.** "Commissioner" means a person who was duly elected and qualified and is serving as an elected member of the public service commission of the state of Minnesota.

Subd. 4. **Former constitutional officer or commissioner.** "Former constitutional officer or commissioner" means a person who has ceased to be a constitutional officer or commissioner subsequent to April 21, 1976 for any reason, including but not limited to the expiration of the term of office for which the person was elected, retirement or death.

Subd. 5. **Surviving spouse.** "Surviving spouse" means the unmarried spouse of a deceased constitutional officer or commissioner or former constitutional officer or commissioner.

Subd. 6. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased constitutional officer or commissioner or a deceased former constitutional officer or commissioner who is under the age of 18, or who is under the age of 22 and is a full time student, and who in either case is unmarried and was actually dependent for more than one-half of his support upon the constitutional officer or commissioner or the former constitutional officer or commissioner for a period of least 90 days immediately prior to the death of the constitutional officer or commissioner or the former constitutional officer or commissioner. The term shall also include a posthumous child of the constitutional officer or commissioner or the former constitutional officer or commissioner.

Subd. 7. **Allowable service.** "Allowable service" means any years or months of service as a constitutional officer or as a commissioner, for which service the person made the contributions required by section 352C.09 on a current basis. The service need not be continuous. For any constitutional officer or commissioner or former constitutional officer or commissioner in office on or before July 1, 1967, allowable service shall include any service as a constitutional officer or commissioner prior to July 1, 1967 notwithstanding that the person did not make concurrent contributions as required by section 352C.09.

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Subd. 8. **Director.** "Director" means the executive director of the Minnesota state retirement system.

[ 1978 c 796 s 13 ]

**352C.03** [ Repealed, 1978 c 796 s 46 ]

**352C.031 RETIREMENT ALLOWANCE.** Subdivision 1. **Unreduced retirement allowance.** Upon separation from service, a former constitutional officer or commissioner who has attained the age of at least 62 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a normal retirement allowance.

Subd. 2. **Reduced retirement allowance.** Upon separation from service, a former constitutional officer or commissioner who has attained the age of at least 60 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to a normal retirement allowance reduced by one-half of one percent for each month that the former constitutional officer or commissioner is under age 62.

Subd. 3. **Average salary.** Average salary for purposes of calculating the normal retirement allowance pursuant to subdivision 4 shall mean the average of the highest five successive years of salary upon which contributions have been made pursuant to section 352C.09.

Subd. 4. **Retirement allowance formula.** The average salary multiplied by two and one-half percent for each year of allowable service and pro rata for completed months less than a full year shall determine the amount of the normal retirement allowance.

Subd. 5. **Benefit accrual and termination.** The benefit shall begin to accrue the first day of the month in which the application is received by the director but in no event earlier than the day following the termination of service or the attainment of the age required to receive such benefit, whichever is later. Thereafter, benefits shall be paid on the first day of each calendar month for that month. The benefit shall cease with the payment for the month in which the retired constitutional officer or commissioner died.

[ 1978 c 796 s 14 ]

**352C.033 DEFERRED ANNUITIES AUGMENTATION.** The deferred retirement allowance for any former constitutional officer or commissioner shall be augmented as provided in this section. The required reserves applicable to the deferred retirement allowance, determined as of the date the retirement allowance begins to accrue using the appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service as a constitutional officer or commissioner, or January 1, 1979, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually.

[ 1978 c 796 s 15 ]

### **352C.04 SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS.**

Subdivision 1. **Surviving spouse benefit.** Upon the death of a constitutional officer or commissioner while serving in such office, or a former constitutional officer or commissioner with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer or commissioner or the former constitutional officer or commissioner computed as though the constitutional officer or commissioner or the former constitutional officer or commissioner were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer or commissioner receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer or commissioner as of the date of death. Such benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life or until remarriage. Upon remarriage such spouse shall no longer be eligible for such benefit except as provided in Minnesota Statutes, 1975 Supplement, Section 356.31.

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Subd. 2. [ Repealed, 1976 c 329 s 36 ]

Subd. 2a. **Surviving dependent child benefit.** Upon the death of a constitutional officer or commissioner while serving in office, or a former constitutional officer or commissioner with at least eight years of allowable service, each dependent child shall be paid a survivor benefit in the following amount: First dependent child, a monthly benefit which equals 25 percent of the monthly retirement allowance of the constitutional officer or commissioner computed as though the constitutional officer or commissioner or the former constitutional officer or commissioner were at least age 62 on the date of his death and based upon the attained allowable service or eight years, whichever is greater; for each additional dependent child or a monthly benefit which equals 12 1/2 percent of the monthly retirement allowance of the constitutional officer or commissioner or the former constitutional officer or commissioner computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer or commissioner or the former constitutional officer or commissioner computed as in the case of the first child. The augmentation provided in subdivision 1, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer or commissioner receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage of the amount of the retirement allowance being paid to the former constitutional officer or commissioner as of the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 2b. [ Repealed, 1976 c 329 s 36 ]

Subd. 3. **Appropriation.** Spouse's and dependent children's survivor benefits, payable under this section, are appropriated annually to the executive director of the Minnesota state retirement system from the general fund of the state treasury, and shall be paid by him monthly.

Subd. 4. **Application for survivor benefits.** A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer or commissioner or the former constitutional officer or commissioner; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit shall cease with the payment for the month in which the surviving spouse dies or remarries as the case may be. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

[ 1967 c 700 s 4; 1969 c 399 s 1; 1969 c 1115 s 5; 1971 c 928 s 8-10; 1974 c 445 s 13; 1976 c 329 s 6,7; 1978 c 796 s 16-18 ]

**352C.05** [ Repealed, 1978 c 796 s 46 ]

**352C.051 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.** Subdivision 1. **Entitlement to annuity; legislative service.** Any constitutional officer or commissioner who has been a member of the legislature with service credited pursuant to chapter 3A shall be entitled when qualified to a retirement allowance from the legislator's retirement plan and the elective state officers plan if the total allowable service for which the person has credit in the two plans totals eight or more years, provided that no portion of the allowable service upon which the retirement allowance from one plan is based, is again used in the computation for benefits from the other plan. The retirement allowance from each plan shall be determined by the appropriate provisions of the law governing each plan, except that the requirement that a person must have at least eight years of allowable service in the respective plan shall not apply for purposes of this section, provided that the aggregate service in the two plans equals eight or more years. The augmentation of deferred annuities provided in sections 3A.02, subdivision 4, and 352C.033, shall apply to the retirement allowances accruing hereunder.

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Subd. 2. **Entitlement to annuity; public retirement service.** Any constitutional officer or commissioner who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis municipal employees retirement fund, or the highway patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision, but excluding all other funds providing retirement benefits for police and firefighters, shall be entitled when qualified to an annuity from each fund if the person's total allowable service for which he has credit 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. The annuity from each fund shall be determined by the appropriate provisions of the law governing each fund, except that the requirement that a person must have at least ten years allowable service in the respective system or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ten or more years. The augmentation of deferred annuities provided in section 352C.033 shall apply to the annuities accruing hereunder.

Subd. 3. **Refund repayment.** Any former constitutional officer or commissioner who has received a refund as provided in section 352C.09, subdivision 2, who is a currently contributing member of a retirement fund specified or enumerated in subdivisions 1 or 2, may repay the refund to the elective state officers retirement plan, with interest at six percent per annum compounded annually.

[ 1978 c 796 s 19 ]

**352C.06** [ Repealed, 1978 c 796 s 46 ]

**352C.07 TAX EXEMPTION.** Any moneys paid to a retired constitutional officer or commissioner or his surviving widow are exempted from taxation under the provisions of chapter 290.

[ 1967 c 700 s 7 ]

**352C.08** [ Repealed, 1978 c 796 s 46 ]

**352C.09 CONTRIBUTIONS.** Subdivision 1. Every constitutional officer or commissioner shall contribute eight percent of his or her total salary beginning the first full pay period after July 1, 1976, and nine percent of his or her total salary beginning the first full pay period after January 1, 1979, by payroll deduction, to be paid into the state treasury and deposited in the general fund. In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the contributions of each constitutional officer or commissioner and credit such contribution to such officer's or commissioner's account.

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer or commissioner and is not receiving and has not received, or is not entitled to receive any allowance or benefit under the provisions of this chapter is entitled to receive upon application to the director a refund of all contributions credited to his account without interest thereon. The moneys required for the refunds are appropriated annually to the director from the general fund in the state treasury.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or his survivors under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund as provided above, he shall be considered a new member for all purposes and such refund may not be repaid for any credit or benefit whatever.

(3) No person shall be required to apply for or accept a refund.

[ 1967 c 700 s 9; 1969 c 399 s 1; 1974 c 445 s 15; 1976 c 329 s 9; 1978 c 796 s 20,21 ]

**352C.091 ADMINISTRATION.** Subdivision 1. The provisions of this chapter shall be administered by the Minnesota state retirement system.

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Subd. 2. Laws 1976, Chapter 329, Sections 4 to 11 shall apply to constitutional officers in office on and after April 21, 1976.

Subd. 3. Laws 1978, Chapter 796, Sections 12 to 22 shall apply to constitutional officers and commissioners in office on and after July 1, 1977. Any constitutional officer or commissioner in office on the effective date of Laws 1978, Chapter 796 shall be entitled to elect to have his retirement allowance computed pro rata under the provisions of Minnesota Statutes 1976, Chapter 352C for all service prior to the effective date of Laws 1978, Chapter 796 and the provisions of this chapter, as amended by Laws 1978, Chapter 796, for all service subsequent to the effective date of Laws 1978, Chapter 796, or to have his retirement allowance computed entirely under the provisions of this chapter, as amended by Laws 1978, Chapter 796. Any former constitutional officer or commissioner who terminated active service prior to July 1, 1977 but has not yet applied to receive a retirement allowance under the provisions of this chapter shall be entitled to apply for and commence receipt of a retirement allowance at the age specified in section 352C.031, subdivision 1, be covered by the deferred annuities augmentation provision contained in section 352C.04, subdivision 1, and be included in the coverage by more than one retirement system provision set forth in section 352C.051.

[ 1976 c 329 s 10; 1978 c 796 s 22 ]