

## CHAPTER 352D

## STATE UNCLASSIFIED EMPLOYEES RETIREMENT PROGRAM

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**352D.01 ESTABLISHMENT.** There is hereby established within the Minnesota state retirement system a retirement program for certain unclassified employees in state service to be known as the Minnesota unclassified employees retirement program, which shall be administered by the Minnesota state retirement system.

[ 1971 c 604 s 1; 1973 c 624 s 1 ]

**352D.015 DEFINITIONS.** Subdivision 1. As used in this chapter, unless the context or subject matter indicates otherwise, the following terms shall have the meanings given.

Subd. 2. "Unclassified program" means the program established by this chapter.

Subd. 3. "Supplemental fund" means the fund established and governed by sections 11.18 to 11.24.

Subd. 4. "Regular fund" means the state employees retirement fund except the moneys for the unclassified program.

Subd. 5. "Covered employment" means employment covered by chapter 352, or this chapter.

Subd. 6. "Employee shares" means shares in the supplemental fund purchased with the employee's contributions.

Subd. 7. "Employer shares" means shares in the supplemental fund purchased with the employer's contributions.

Subd. 8. "Total shares" means all the employee shares and employer shares credited to a participant. Where applicable, the term "contributions" shall mean "shares."

Subd. 9. "Value" means cash value at the end of the month following receipt of an application in the case of applications received prior to the 21st day of any month, or at the end of the next succeeding month in the case of applications received after the 20th day of any month. If no application is required, "value" means the cash value at the end of the month in which the event necessitating the transfer occurs.

Subd. 10. [ Repealed, 1975 c 368 s 51 ]  
 [ 1973 c 624 s 2; 1975 c 368 s 41 ]

**352D.02 COVERAGE.** Subdivision 1. The following employees in the unclassified service of the state who are eligible for coverage under the Minnesota state retirement system shall participate in the unclassified program unless such employee gives notice to the executive director of the state retirement system within one year following June 5, 1975 or the commencement of his employment, whichever is later, that he desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file such notice with the executive director shall be deemed to have exercised his option to participate in the unclassified plan. The employee and applicable employer contributions for those employees covered by the regular plan on June 5, 1975, who after such date participate in the unclassified plan, shall be transferred to the supplemental fund in accordance with subdivision 4 and section 352D.03 as though the employee had elected to participate when first eligible to make such election. This subdivision shall also be applicable to any person who was an employee in an eligible position on or after January 1, 1975, has terminated service before June 5, 1975 with less than ten years of allowable service, and has not taken a refund of his contributions.

(1) Any employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, revisor of statutes or the state board of investment,

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(2) Any department, division, or agency head, the assistant department head or deputy, or any employee enumerated in sections 15A.081, subdivision 1 or 15A.083, subdivision 3,

(3) Any permanent, fulltime unclassified employee of the legislature or any commission or agency of the legislature or a parttime legislative employee having shares in the supplemental retirement fund whether or not eligible for coverage under the Minnesota state retirement system,

(4) Any person employed in a position established pursuant to section 43.09, subdivision 2a which is at the deputy or assistant head of department or agency or director level,

(5) The chairman, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission, and the chairman, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system, and

(6) The executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system.

The eligibility to participate of those employees specified in clauses (4) and (5) employed in such positions on April 21, 1976, shall be retroactive to their date of appointment to such positions.

The eligibility to participate of those employees specified in clause (6) employed in such positions on July 1, 1977, shall be retroactive to their date of appointment to such positions.

Subd. 2. A person becoming a participant in the unclassified program by virtue of his inclusion in chapter 15A and remaining in the unclassified service shall remain a participant in such program even though the position he occupies is deleted from chapter 15A by subsequent amendment, except that a person shall not be eligible to elect the unclassified program after separation from unclassified service if on his return to such service that position is not listed in the applicable sections of chapter 15A. Any person enumerated in subdivision 1 shall cease to participate in the unclassified program in the event his position is placed in the classified service.

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee with employee shares to his credit in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate his participation in the unclassified plan and be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the employee been covered by the regular plan during his entire covered employment. The balance of moneys so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund.

Subd. 4. When any person elects participation in the unclassified program all contributions from the time first eligible to make such an election shall be covered by the program.

[ 1971 c 604 s 2; 1973 c 624 s 3; 1975 c 368 s 42,43; 1976 c 329 s 11; 1977 c 429 s 17 ]

**352D.03 TRANSFER OF ASSETS.** A sum of money representing the assets credited to each employee exercising the option contained in section 352D.02, plus an equal employer contribution together with interest for the employment period at the actuarially assumed rates during this period, compounded annually, shall be used for

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the purchase of shares on behalf of each employee in the accounts of the supplemental retirement fund established by section 11.18. Any employer's contribution to amortize the deficit in the state employee's retirement fund shall not, however, be used for the purchase of shares.

[ 1971 c 604 s 3; 1973 c 35 s 54; 1973 c 624 s 4; 1974 c 152 s 12 ]

**352D.04 INVESTMENT OPTIONS.** Subdivision 1. An employee exercising his option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account or the fixed-return account of the supplemental retirement fund in accordance with one of the following options:

- (1) 100 percent invested in the income share account;
- (2) 75 percent invested in the income share account and 25 percent invested in the growth share account;
- (3) 50 percent invested in the income share account and 50 percent invested in the growth share account;
- (4) 100 percent invested in the fixed-return account; or
- (5) 75 percent invested in the fixed-return account and 25 percent invested in the growth share account.

Prior to July 1 of each year, each participant may indicate in writing on forms provided by the Minnesota state retirement system his choice of options for subsequent purchases of shares. For that year and thereafter until a different written indication is made by such participant the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares shall be purchased for a participant.

Subd. 2. The moneys used to purchase shares under this section shall be the employee and employer contributions as provided in section 352.04, subdivisions 2 and 3, clause (1). Except as authorized by section 352D.10, the additional amount provided in section 352.04, subdivision 3, clause (2) shall remain in the regular fund.

[ 1971 c 604 s 4; 1973 c 624 s 5; 1974 c 152 s 13 ]

**352D.05 WITHDRAWAL OPTIONS.** Subdivision 1. Except as authorized by section 352D.06, no withdrawal of shares shall be permitted prior to termination of covered employment.

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

Subd. 3. Upon termination of covered employment or at any time thereafter a participant shall be entitled to withdraw the cash value of his total shares or may leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn shall remain on deposit with the supplemental retirement fund until the former participant attains the age of at least 58 years, and applies for an annuity as provided in section 352D.06, subdivision 1.

Subd. 4. No person shall be permitted to repay the value of shares withdrawn from the unclassified program, but a participant in the unclassified program may repay regular refunds as provided in section 352.23.

Subd. 5. No payment shall be made under this section to a person in covered employment.

[ 1971 c 604 s 5; 1973 c 624 s 6; 1975 c 368 s 44; 1976 c 81 s 1; 1978 c 562 s 10 ]

**352D.06 ANNUITIES.** Subdivision 1. When a participant attains at least age 58, is retired from covered service, and applies for a retirement annuity, the cash value of his shares shall be transferred to the Minnesota adjustable fixed benefit fund and used to provide an annuity for the retired employee based upon his age when the benefit begins to accrue according to the reserve basis used by the regular fund in determining pensions and reserves.

Subd. 2. A participant may, at his option, in his application for an annuity apply for and receive the value of one-half of the total shares and thereafter receive an annuity, as provided in subdivision 1, based on the value of one-half of the total shares.

Subd. 3. An annuity herein shall begin to accrue the first day of the first full

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month after an application is received or after termination of state service, whichever is later.

[ 1971 c 604 s 6; 1973 c 624 s 7; 1975 c 368 s 45,46 ]

**352D.065 DISABILITY BENEFITS.** Subdivision 1. [ Repealed, 1975 c 368 s 51 ]

Subd. 2. If a participant becomes totally and permanently disabled he may, at his option, even if on leave of absence without pay, receive:

- (1) The value of his total shares;
- (2) The value of one-half of the total shares and an annuity based on the value of one-half of the total shares; or
- (3) An annuity based on the value of his total shares.

Subd. 3. The annuity payable under this section shall begin to accrue the first day of the month following the date of disability and shall be based on the participant's age when the annuity begins to accrue. The shares shall be valued as of the end of the month following authorization of payments.

Subd. 4. The benefits payable under this section shall not be reduced by amounts received or receivable under applicable workers' compensation laws.

Subd. 5. An unclassified employee who returns to covered service after receiving benefits under this section shall not be required or allowed to repay such benefits.

[ 1973 c 624 s 8; 1975 c 359 s 23; 1975 c 368 s 47,48 ]

**352D.07** [ Repealed, 1973 c 624 s 13 ]

**352D.075 DEATH BENEFITS.** Subdivision 1. [ Repealed, 1975 c 368 s 51 ]

Subd. 2. If a participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary, the spouse may receive:

- (1) The value of his total shares;
- (2) The value of one-half of the total shares and beginning at age 58 or thereafter receive an annuity based on the value of one-half of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age 58 or thereafter receive an annuity based on the value of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; and further provided, if said spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse.

Subd. 3. If a participant dies and has named a beneficiary, the value of the total shares shall be paid to such beneficiary, but if such beneficiary dies before receiving payment, or if no beneficiary has been named and there is no spouse, the value of said shares shall be paid to the children of the participant in equal shares, but if no such children survive then in equal shares to the parents of the participant, but if no such children or parents survive, then to the estate of the participant.

[ 1973 c 624 s 9; 1975 c 368 s 49,50 ]

**352D.08** [ Repealed, 1973 c 624 s 13 ]

**352D.085 COMBINED SERVICE.** Subdivision 1. Service under the unclassified program for which the employee has employee shares to his credit, may be used for the limited purpose of qualifying for benefits under sections 352.115, 352.72, subdivision 1, and 352.113; provided such service may not be used to qualify for a disability benefit under section 352.113 if a participant was under the unclassified program at the time of the disability, and provided further that the years of service and salary paid while such participant was in the unclassified program shall not be used in determining the amount of benefits.

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Subd. 2. [ Repealed, 1975 c 368 s 51 ]  
[ 1973 c 624 s 10 ]

**352D.09 ADMINISTRATION.** Subdivision 1. The provisions of sections 352D.01 to 352D.09 shall be administered by the Minnesota state retirement system. The provisions of chapter 352 shall govern in all instances where not inconsistent with the provisions of sections 352D.01 to 352D.09.

Subd. 2. Whenever redemption or purchases from the supplemental retirement fund are required to be made, the executive director shall make them.

Subd. 3. The executive director shall annually distribute the prospectus prepared by the supplemental fund, by July 1 or when received from such fund, whichever is later, to each participant in covered employment.

Subd. 4. Whenever benefits or withdrawals are authorized or required to be paid, payment shall be made only after receipt of an application signed by the person or representative authorized to receive the benefit or withdrawal; such application shall be made only on forms authorized by the executive director.

Subd. 5. If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of death of a participant the value of the shares shall be appropriated to the regular fund and provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after termination of covered service or by age 70, whichever is later, the value of the shares shall be appropriated to the regular fund and the provisions of section 352.22, subdivision 8 shall apply.

Subd. 6. The monthly annuities payable under this chapter may be paid by a single installment at the beginning of a calendar year, for annuities accrued in the previous year, when requested by the annuitant and approved by the executive director.

Subd. 7. One-tenth of one percent of salary shall be deducted from the employee contributions authorized by section 352.04, subdivision 2, and one-tenth of one percent of salary from the employer contributions authorized by section 352.04, subdivision 3, clause (1) to pay the administrative expenses of the unclassified program.

[ 1971 c 604 s 9; 1973 c 624 s 11 ]

**352D.10 ADDED EMPLOYER CONTRIBUTIONS.** Any added percentage of payroll contributions attributable to earnings of an employee who has elected to participate in the unclassified employees program established pursuant to this chapter, which is paid by the employer shall be limited to the amount required to eliminate any currently existing deficit as of June 30, 1971. If such deficit is increased due to additional benefits to employees not participating in the unclassified employees program or due to a change in the actuarially assumed interest rate, the appropriate amount of employer contribution shall be paid toward the purchase of units in the account of each individual member of the unclassified employees program.

[ 1973 c 624 s 12 ]