

CHAPTER 3A

LEGISLATOR'S RETIREMENT

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3A.01 DEFINITIONS. Subdivision 1. **Purposes.** The terms defined in this section for the purposes of sections 3A.01 to 3A.10 shall be given the meanings ascribed to them.

Subd. 2. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member of the legislature or former legislator 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 such legislator for a period of at least 90 days immediately prior to the legislator's death. It also includes any child of the member of the legislature or former legislator conceived during his lifetime and born after his death. This subdivision shall be retroactive as to any dependent child under the age of 22 years as of April 1, 1975.

Subd. 3. **Member of the legislature.** "Member of the legislature" means a member of the house of representatives or the senate of the state of Minnesota who has subscribed to the oath of office.

Subd. 4. **Retirement.** "Retirement" means the time after a former legislator is entitled to a retirement allowance. "Former legislator" means a legislator who has ceased to be a member of the legislature for any reason, including, but not limited to, expiration of the term for which a member of the legislature was elected, or death of such member.

Subd. 5. [Repealed, 1971 c 928 s 11]

Subd. 6. **Director.** "Director" means the executive director of the Minnesota state retirement system.

Subd. 7. **Average monthly salary.** With regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session, "average monthly salary" means final monthly salary during the member's final term of office as a member of the legislature; and with regard to any member of the legislature whose service terminates after the beginning of the 1981 legislative session, "average monthly salary" means the average of the member's highest five successive years of salary received as a member of the legislature after the beginning of the 1981 legislative session, or all salary after the beginning of the 1981 legislative session if less than five years.

Subd. 8. **Normal retirement age.** "Normal retirement age" means the age of 60 years with regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session, and the age of 62 years with regard to any member of the legislature whose service terminates after the beginning of the 1981 session.

[1965 c 896 s 1; 1974 c 445 s 1; 1975 c 368 s 1,2; 1978 c 796 s 1,2]

3A.02 RETIREMENT ALLOWANCE. Subdivision 1. **Qualifications.** Any former legislator:

(1) Who has served at least six full years, without regard to the application of section 3A.10, subdivision 2, or who has served during all or part of four regular sessions as such member of the legislature, which service need not be continuous, but must have been after January 1, 1965 except as hereinafter provided; and

(2) Who attains the normal retirement age; and

(3) Who has retired as a member of the legislature; and

(4) Who has made all contributions provided for in sections 3A.01 to 3A.10, or who has made payments in lieu of all contributions provided for in sections 3A.01 to

3A.10 as provided in subdivision 2; shall be entitled upon written application to the director to receive a retirement allowance monthly in an amount equal to five percent per year of service, not to exceed eight years of service, of that member's average monthly salary beginning with the first day of the month of receipt of such application and for the remainder of his life, provided he is not serving as a member of the legislature or as a constitutional officer or commissioner.

In addition to the amount provided above, the retired member who meets the qualifications of clauses (1), (2), (3) and (4) shall receive for every year of service over eight years a monthly allowance which equals two and one-half percent of the average monthly salary.

Notwithstanding clause (4), a member shall receive two and one-half percent of the average monthly salary for each year of service served after the beginning of the 1979 legislative session. Any member who has served during all or part of four regular sessions shall be deemed to have served eight years as a member of the legislature.

The retirement allowance shall cease with the last payment which had accrued to the retired legislator during his lifetime except that the surviving spouse, if any, shall be entitled to the retirement allowance for the calendar month in which the retired legislator died.

Effective for service rendered after the beginning of the 1981 legislative session, no member may accrue credit for more than 20 years service, nor shall member contributions thereafter be required for more than 20 years service.

For the purposes of this chapter the term salary shall not be deemed to include any additional payments provided by law for legislative leadership positions.

This subdivision is applicable to members of the legislature who terminate service after January 1, 1973, and to any widow or dependent child of any such member. Clauses (1) and (2) shall also be applicable to any former legislator who applies for a deferred annuity after June 5, 1975. Any former legislator who was in office on or after January 1, 1965, who had at least eight years of service but less than ten years of service as a member of the legislature, and who took a refund of his contributions, may upon application to the director repay to the director for credit to his account all refundments taken plus interest thereon at six percent per annum compounded annually. Upon repayment of the refundment, he shall then be entitled when otherwise qualified to a retirement allowance pursuant to subdivision 1, provided however that the retirement allowance shall be based on his salary at the time of his termination of service as a member of the legislature.

Subd. 1a. [Repealed, 1973 c 653 s 47]

Subd. 1b. **Reduced retirement allowance.** Upon separation from service after the beginning of the 1981 legislative session, a former member of the legislature who has attained the age of at least 60 years and who is otherwise qualified in accordance with subdivision 1 is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to the retirement allowance specified in subdivision 1 reduced by one-half of one percent for each month that the former member of the legislature is under age 62.

Subd. 2. **Payment for past service.** Any member of the legislature who is a member on July 1, 1965 or thereafter, may, notwithstanding the provisions of subdivision 1, clause (1), receive credit for service rendered as a member of the legislature prior to July 1, 1965, and the pension based thereon provided that he pays to the director for credit to his account an amount equal to nine percent of all salary received by him for all periods of service rendered by him as a member of the legislature, even if such periods are not continuous and exceed ten years in duration. Such payment may be made at any time after the commencement of any regular session of the legislature of which he is a member.

Subd. 3. **Appropriation.** The amounts required for payment of retirement allowances provided by this section are appropriated annually to the director from the participation in the Minnesota adjustable fixed benefit fund and shall be paid by him monthly to the recipients entitled thereto.

Subd. 4. **Deferred annuities augmentation.** The deferred annuity of any former legislator shall be augmented as provided herein. The required reserves applicable to the deferred annuity, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service, or July 1, 1973,

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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.

[1965 c 896 s 2; 1967 c 877 s 1,2; 1969 c 155 s 1; 1969 c 399 s 1; 1969 c 1115 s 1; 1971 c 928 s 1,2; 1973 c 653 s 1-3; 1974 c 445 s 2-4; 1975 c 368 s 3-5; 1977 c 35 s 12; 1978 c 796 s 3-6]

3A.03 CONTRIBUTIONS. Subdivision 1. **Percentage.** Every member of the legislature shall contribute nine percent of his total salary, by payroll deduction, to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the periodic contributions of each member of the legislature and credit such contribution to the member's account.

Subd. 2. **Refundment.** (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a member of the legislature and has less than eight years service as a member of the legislature and is not receiving, has not received, or is not entitled to receive any allowance or benefit under sections 3A.01 to 3A.10 is entitled to receive upon application to the director a refundment of all contributions credited to his account without interest thereon. The moneys required for such refundments are appropriated annually to the director from the general fund in the state treasury.

(2) The refundment of contributions as provided in clause (1) above terminates all rights of a former member of the legislature or his survivors under sections 3A.01 to 3A.10. Should the former member of the legislature again be a member of the legislature after having taken a refundment as provided above, he shall be considered a new member. However, such new member may reinstate the rights and credit for service forfeited, provided the new member repays all refundments taken plus interest thereon at six percent per annum compounded annually.

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

[1965 c 896 s 3; 1969 c 399 s 1; 1971 c 928 s 3; 1973 c 653 s 4; 1974 c 445 s 5,6; 1975 c 368 s 6; 1978 c 796 s 7]

3A.04 SURVIVOR BENEFIT. Subdivision 1. **Surviving spouse.** Upon the death of a member of the legislature while serving as such member after June 30, 1973, or upon the death of a former member of the legislature with at least the number of years of service as required by section 3A.02, subdivision 1, clause (1), the surviving spouse shall be paid a survivor benefit in the amount of one-half of the retirement allowance of the member of the legislature computed as though the member were at least normal retirement age on the date of his death and based upon his allowable service or eight years whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied to the month of death. Upon the death of a former legislator receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the allowance being paid to the legislator. Such benefit shall be paid during the lifetime of the surviving spouse, but shall cease and terminate upon the remarriage of the surviving spouse.

Subd. 1a. **Increase in survivor benefits.** Survivor benefits provided in subdivision 1 authorized and in effect on the effective date of Laws 1977, Chapter 429 shall be increased by 25 percent, effective retroactively to January 1, 1974, or the date the survivor benefit became payable, whichever is later.

Subd. 2. **Dependent children.** Upon the death of a member of the legislature while serving as such member after June 30, 1973, or upon the death of a former member of the legislature with at least the number of years of service as required by section 3A.02, subdivision 1, clause (1), each dependent child of such member shall be paid a survivor benefit in the following amount: First dependent child, a monthly allowance which equals 25 percent of the monthly retirement allowance of the member of the legislature computed as though the member were at least normal retirement age on the date of his death and based upon his allowable service or eight years whichever is greater; for each additional dependent child, a monthly allowance which equals 12 1/2 percent of the monthly retirement allowance of the member 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 retirement allowance of the member computed as in the case of the first child. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied to the month of death. Upon the death of a former legislator receiving a retirement al-

lowance, the surviving dependent child shall be entitled to the applicable percentage of the amount of the allowance being paid to the former legislator. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent children, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 3. Appropriation. The surviving spouse's and dependent children's survivor benefits payable under this section are appropriated annually to the director from the general fund in the state treasury, and shall be paid by him monthly in the same manner as retirement allowances are authorized to be paid by sections 3A.01 to 3A.10.

Subd. 4. Refunds to estate. Upon the death of a member of the legislature without a surviving spouse and without any dependents, a refundment of contributions of such deceased member of the legislature shall be paid to the estate of the member upon application of the representative thereof. Such moneys as may be necessary to carry out the terms of this provision are appropriated annually to the director from the general fund in the state treasury.

This subdivision is applicable to an application for refundment covering contributions of a deceased member, regardless of when his death occurred.

[1965 c 896 s 4; 1967 c 877 s 3,4; 1969 c 399 s 1; 1969 c 1115 s 2,3; 1971 c 928 s 4-6; 1973 c 653 s 5,6; 1974 c 445 s 7,8; 1975 c 368 s 7,8; 1977 c 429 s 1-3; 1978 c 796 s 8,9]

3A.05 APPLICATION FOR SURVIVOR BENEFIT. Applications for survivor benefits under sections 3A.01 to 3A.10 shall be filed with the director by the surviving spouse and dependent children entitled to such benefits under section 3A.04, or by the guardian of the estate, if there is one, of the dependent children; and payments shall commence as of the first of the month next following the filing of the application, and shall be retroactive to the first day of the month following the death of the member of the legislature or former member with respect to any application filed after June 30, 1973. With respect to applications made after July 1, 1975, no payment shall be retroactive for more than 12 months prior to the month the application is filed with the director.

[1965 c 896 s 5; 1971 c 928 s 7; 1974 c 445 s 9; 1975 c 368 s 9]

3A.06 RESIGNATION FROM RETIREMENT SYSTEMS. A member of the legislature who is a member of the Minnesota state retirement system, the public employees retirement association, the state teachers retirement fund, or other retirement association or fund authorized by law for employees in public employment, may resign as such a member at any time from and after May 27, 1965, notwithstanding any provision of any other law to the contrary, and shall receive a refundment of his contributions as otherwise provided by law.

[1965 c 896 s 6; 1971 c 25 s 5]

3A.07 APPLICATION. Sections 3A.01 to 3A.10 apply to members of the legislature in service upon July 1, 1965, or thereafter, who otherwise meet the requirements of sections 3A.01 to 3A.10.

[1965 c 896 s 7]

3A.08 EXEMPTION FROM TAXATION. All benefits and allowances provided by sections 3A.01 to 3A.10 shall be exempt from all taxes imposed by the state of Minnesota, 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.

[1965 c 896 s 8; 1971 c 789 s 1]

3A.09 MEMBERSHIP IN P.E.R.A. Any member of the legislature who is a member of the public employees retirement association on July 1, 1965 or on July 1, 1967, may, at his option, within six months of such latter date, or within six months after the commencement of the 1969 regular session of the legislature, remain such a member and shall not be required to make the contributions required by sections 3A.01 to 3A.10 and until such election he shall remain a member of the public employees retirement association. A member of the legislature who qualifies as a member thereof subsequent to July 1, 1967, and who is a member of the public employees re-

irement association at the time of such qualification, may, at his option, within six months of the date of qualification, remain such a member and shall not be required to make the contributions required by sections 3A.01 to 3A.10, and until such election he shall remain a member of the public employees retirement association. No member of the legislature shall belong to the public employees retirement association for service as a member of the legislature and make contributions under sections 3A.01 to 3A.10 or accrue rights under sections 3A.01 to 3A.10 at the same time. A member of the legislature who is not a member of the public employees retirement association on July 1, 1965, or on the date he qualifies as a member of the legislature, shall have contributions deducted from his next salary warrant for all pay periods after January 1, 1965, or after the date he qualifies as a member of the legislature. A member of the legislature may belong to the public employees retirement association for service performed other than as a member of the legislature and make contributions as required by sections 3A.01 to 3A.10.

[1965 c 896 s 9; 1967 c 877 s 5; 1969 c 155 s 2]

3A.10 ONE TERM OF SERVICE BEING A CERTAIN TIME. Subdivision 1. In the case of a member of the house of representatives one full term of office shall be considered two full years service notwithstanding the fact that the oath of office may be taken on different days each biennium. In the case of a member of the senate, one full term of office shall be considered four full years service notwithstanding the fact that the oath of office may be taken on different days at the start of each term. For purposes of this chapter, a legislative term shall be deemed to commence on January 1st and to end on December 31st.

Subd. 2. In the case of a member of either house of the legislature who is elected to serve the remainder of an unexpired term or who is seated and subscribes to his oath of office after the day appointed by law for the opening of the legislature, the member shall be considered to have served the number of years which he would have served had he taken the oath of office on the day appointed for the commencement of the full term of office.

[1965 c 896 s 10; 1967 c 877 s 6; 1975 c 368 s 10]

3A.11 PARTICIPATION IN MINNESOTA ADJUSTABLE FIXED BENEFIT FUND. Subdivision 1. The reserves necessary to fund the retirement benefits granted under section 3A.02 to retired legislators and legislators retiring in the future, shall be transferred by the director to the Minnesota adjustable fixed benefit fund as of June 30, 1973, or as of the date benefits begin to accrue, whichever is later, in accord with section 11.25 as amended. The amount of the transfer made hereunder shall be determined by an approved actuary as defined in section 352.01, subdivision 15, in accord with appropriate mortality table using an interest assumption of five percent.

Subd. 2. Annuities and benefits shall be adjusted in accord with the provisions of section 11.25 as amended.

Subd. 3. There is herein appropriated from general revenue moneys sufficient to fund the reserves required by this section.

Subd. 4. Notwithstanding section 356.18 increases in benefit payments pursuant to this section will be made automatically unless the intended recipient files written notice with the director requesting that the increase shall not be made.

[1973 c 653 s 7; 1974 c 445 s 10,11]

3A.12 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION. Subdivision 1. **Entitlement to annuity.** Any legislator 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 policemen and firefighter's fund, or the teachers retirement association, or the Minneapolis municipal employees retirement fund, or the highway patrolmen's retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for policemen or firefighters, shall be entitled when qualified to an annuity from each fund if his 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 except that the requirement that a person must

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have at least ten years allowable service in the respective system or association 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. The augmentation of deferred annuities provided in section 3A.02, subdivision 4, shall apply to the annuities accruing hereunder.

Subd. 2. Refund repayment. Any former legislator who has received a refund as provided in section 3A.03, subdivision 2, who is a currently contributing member of a retirement fund specified in subdivision 1, may repay the refund as provided in section 3A.03, subdivision 2. Any member of the legislature who has received a refund from any of the funds specified in subdivision 1, may repay the refund to the respective fund under such terms and conditions consistent with the law governing such fund if the law governing such fund permits the repayment of refunds. If the total amount to be repaid, including principal and interest exceeds \$2,000, repayment may be made in three equal installments over a period of 18 months, with interest accrued during the period of repayment added to the final installment.

[1975 c 368 s 11; 1977 c 429 s 63]