

CHAPTER 354

TEACHERS RETIREMENT ACT

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354.01 [Renumbered 83A.01]

354.02 [Renumbered 83A.02]

354.03 [Renumbered 83A.03]

354.04 [Renumbered 83A.04]

354.045 CITATION.

This chapter may be cited as the teachers retirement act.

History: 1969 c 485 s 39; 1974 c 289 s 1

354.05 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. **Teacher.** "Teacher" includes any person who renders service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state located outside of the corporate limits of the cities of the first class as those cities were so classified on January 1, 1979, or in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who is engaged in educational administration in connection with the state public school system, including the state university system and state community college system, but excluding the University of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with the systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association unless the employee is covered by the Minnesota state retirement system by virtue of prior employment by the association, and any nurse, counselor, social worker or psychologist who renders

service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of the combined employment shall be covered by the teachers retirement association. The term does not mean any person who works for a school or institution as an independent contractor. The term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution. The term shall not include any person holding a part time adult supplementary vocational-technical school license who renders part time teaching service in a vocational-technical school if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable vocational-technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year. The term also shall not include a person exempt from licensure pursuant to section 125.031 or any person who was excluded from membership prior to January 1, 1981 pursuant to Laws 1978, Chapter 556, Section 1 and Laws 1980, Chapter 342, Section 8, if the person annually certifies on a form prescribed by the executive director that the person has established and is contributing to an individual retirement account which is based on non-teaching employment.

Subd. 3. **Teaching.** The word "teaching" includes the service performed by any person coming within the definition of "teacher" as set forth in subdivision 2.

Subd. 4. **Fund.** The term "fund" means the teachers retirement fund referred to in this chapter.

Subd. 5. **Member of fund.** The term "member of fund" means every teacher who joins and contributes to the teachers retirement fund as provided in this chapter who has not retired.

Subd. 6. **Board.** The term "board" means the board of trustees of the teachers retirement fund.

Subd. 7. **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. 8. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member who has not reached the age of 18, or who is under age 22 and is a full time student throughout the normal school year, unmarried and dependent for more than one-half of his support upon such member and for a period of at least 90 days prior to the member's death. It also includes any child of the member conceived during his lifetime and born after his death.

Subd. 9. **Association.** "Association" means the combined membership of all teachers who qualify and participate in the retirement program provided for in this chapter.

Subd. 10. **Approved actuary.** "Approved actuary" means any actuary who is either 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.

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Subd. 11. **Accumulated deductions.** "Accumulated deductions" means the total of the sums deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions, credited to his individual fund, less amounts paid to the member or any person in his behalf in the form of refundments, annuity payments or benefit payments and less any other amounts deducted pursuant to law.

Subd. 12. **Payments in lieu of deductions.** "Payments in lieu of deductions" means the assessments or payments made by any member to receive credit for service rendered when no salary deductions were made.

Subd. 13. **Allowable service.** "Allowable service" means:

(1) Any service rendered by a teacher for which on or before July 1, 1957, he received credit to his account in the retirement fund by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, Sections 135.01 to 135.13, as amended by Laws 1955, Chapters 361, 549, 550, 611 or

(2) Any service rendered by a teacher for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, Section 354.09 and section 354.51 or

(3) Any service rendered by a teacher after July 1, 1957, for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or

(4) Any service rendered by a person after July 1, 1957, for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund as provided in Minnesota Statutes 1980, Section 354.09, Subdivision 4, and section 354.53, or

(5) Any service rendered by a teacher for which he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, Section 354.09, Subdivisions 1 and 4, sections 354.50, 354.51, Minnesota Statutes 1957, Section 135.41, Subdivision 4, Minnesota Statutes 1971, Section 354.09, Subdivision 2, or Minnesota Statutes, 1973 Supplement, Section 354.09, Subdivision 3, or

(6) Both service during years of actual membership in the course of which contributions were currently made and service in years during which the teacher was not a member but for which he later elected to obtain credit by making payments to the fund as permitted by any law then in effect, or

(7) Any service rendered where contributions were made and no allowable service credit was established because of the limitations contained in Minnesota Statutes 1967, Section 354.09, Subdivision 2, and Minnesota Statutes 1957, Section 135.09, Subdivision 2, as determined by the ratio between the amounts of money credited to his account in a fiscal year and the maximum retirement contribution allowable for that year. For purposes of this subdivision, the maximum contributions allowable after July 1, 1967, shall be defined as the maximum in effect immediately prior to that date.

Subd. 14. **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. An "indefinite duration" is a period of at least one year.

Subd. 15. **Dependent spouse.** "Dependent spouse" means the spouse of a deceased member who has not remarried and was living with and dependent upon the member at the time of death.

Subd. 16. **Retirement annuity.** "Retirement annuity" means the payments made by the fund to a former member after retirement.

Subd. 17. **Optional survivors annuity.** "Optional survivors annuity" means the payments made by the fund to a survivor of a former member pursuant to an optional annuity form selected by such member at or before retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

Subd. 18. [Repealed, 1974 c 289 s 59]

Subd. 19. **Annuity.** "Annuity" means a retirement annuity, optional survivors annuity, or spouses annuity.

Subd. 20. **Benefit.** "Benefit" means an allowance paid or payable by the fund to a surviving dependent spouse or a dependent child which is a fixed amount and also includes an allowance paid or payable by the fund to a member or former member who is permanently and totally disabled.

Subd. 21. **Retirement.** "Retirement" means the withdrawal of a member from active teaching service who is paid a retirement annuity thereafter and commences with the date designated by the retirement board when the retirement annuity shall first accrue to the former member after his withdrawal from active teaching service. This date shall determine any rights specified in this chapter which occur either before or after retirement, as the case may be.

Subd. 22. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member to receive the balance of his accumulated deductions after death. If the member had failed to designate such a person or if the person designated predeceased the member, beneficiary in such cases means the estate of the deceased member.

Subd. 23. **Variable account accumulation.** "Variable account accumulation" means the total amounts credited to a member's account in the variable annuity division as most recently revalued in accordance with the provisions of sections 11A.19 and 354.62.

Subd. 24. **Retirement variable annuity.** "Retirement variable annuity" means the payments made by the fund to an annuitant after retirement in varying amounts prescribed by the provisions of sections 354.44, subdivision 7, 354.62 and 354.621 pertaining to variable annuities and may vary based on investment performance in accordance with the provisions of section 354.62.

Subd. 25. **Formula service credit.** "Formula service credit" means any allowable service credit as defined in subdivision 13 except:

(1) Any service rendered prior to July 1, 1951, for which payments were made pursuant to subdivision 13 except as provided in section 354.09, subdivision 4, as determined by multiplying the number of years of service established in the records of the teachers retirement fund as of July 1, 1961 by the ratio obtained between the total amount paid and the maximum amount payable for those years;

(2) Any service rendered prior to July 1, 1957 for which payments were made pursuant to section 354.09, subdivision 4, as determined by multiplying the number of years of service established in the records of the teachers retirement fund by the ratio obtained between the total amount paid and the maximum amount payable for those years; or

(3) Any service rendered for which contributions were not made in full as determined by the ratio between the amounts of money credited to his account in a fiscal year and the retirement contribution payable for the fiscal year pursuant to sections 354.092, 354.42 and 354.51; and

(4) No period of service shall be counted more than once for purposes of this subdivision.

Subd. 26. **Post retirement investment fund annuity.** "Post retirement investment fund annuity" means the payments made by the fund to an annuitant after

retirement in accordance with the provisions of section 354.63. It also means that the payments made by the fund shall never be an amount less than the amount originally determined on the date of retirement or on January 1, 1974 whichever is later but not including the adjustments provided in section 11A.18.

Subd. 27. Normal school operating funds. The term "normal school operating funds" as used in this chapter shall be defined as and limited to the proceeds of property tax levies, state school maintenance cost aids distributed in accordance with statutes governing such funds, state aid to distressed school districts, proceeds from federal forest reserve lands, state transportation aids, and receipts from tuition paid by persons or other school districts and rental charges received. The term also includes moneys appropriated by the legislature for the operation of any state agency, department, state board, or institution.

Subd. 28. Satisfactory certification. The term "satisfactory certification" means a certification executed by a responsible officer of an employing authority in such form and content that false or misleading information would constitute perjury.

Subd. 29. Social security receivable. The term "social security receivable" means an amount equal to the request of transfer the trustees are authorized to make in section 355.46, subdivision 3 plus the amounts the commissioner of finance shall determine as of July 1, 1971 that have been paid from the teachers retirement fund pursuant to section 355.46, subdivision 3, clause (b) for which reimbursement has not already been made during the twelve-month period immediately preceding July 1, 1971.

Subd. 30. Coordinated member. "Coordinated member" means any teacher 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. 31. Basic member. "Basic member" means any teacher not covered by any agreement or modification made between the state and the secretary of health, education and welfare.

Subd. 32. Formula program. "Formula program" means a retirement program which provides benefits based on certain percentages multiplied by the years of service and average salary of a member as described in section 354.44.

Subd. 33. Variable annuity program. "Variable annuity program" means a retirement program which provides benefits based on a member's variable account accumulations as described in section 354.62 and the annuity rates of an appropriate mortality table adopted by the board of trustees.

Subd. 34. Formula and variable program. "Formula and variable program" means a retirement program which is a combination of the programs defined in subdivisions 32 and 33 as described in sections 354.44 and 354.62.

Subd. 35. Salary. "Salary" means the compensation paid to a teacher excluding lump sum annual or sick leave payments and all forms of severance payments.

Subd. 36. Retiree of fund. "Retiree of fund" means any former member who has retired as provided in this chapter.

History: 1931 c 406 s 1; 1957 c 576 s 1,2; Ex1957 c 16 s 1,2; Ex1959 c 50 s 1-4; 1961 c 597 s 1; Ex1961 c 17 s 1; 1963 c 845 s 1; 1965 c 821 s 1; Ex1967 c 6 s 5; 1969 c 485 s 1,2; 1971 c 40 s 1-3; 1971 c 535 s 1; Ex1971 c 48 s 7; 1973 c 270 s 2; 1973 c 728 s 3; 1974 c 289 s 2-8; 1975 c 306 s 1-4; 1975 c 321 s 2; 1977 c 67 s 1; 1977 c 97 s 1; 1977 c 429 s 35; 1978 c 556 s 1; 1978 c 720 s 8; 1980 c 342 s 8; 1980 c 607 art 14 s 46; 1980 c 609 art 5 s 21; 1981 c 224 s 98-102 (2950-1)

354.06 BOARD OF TRUSTEES; MEMBERSHIP; DUTIES.

Subdivision 1. The management of the fund shall be vested in a board of eight trustees which shall be known as the board of trustees of the teachers retirement fund. It shall be composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of insurance, four members of the fund who shall be elected by the members of the fund and one retiree who shall be elected by the retirees of the fund. The five elected members of the board of trustees shall be chosen by mail ballot in a manner which shall be fixed by the board of trustees of the fund. In every odd numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd numbered year there shall be elected one retiree of the fund to the board of trustees for a term of two years commencing on the first of July next succeeding the election. Each election shall be completed by June first of each succeeding odd numbered year. In the case of elective members, any vacancy shall be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree shall be appointed by the board, or elected by the members of the fund as a trustee if the person is not a member or retiree of the fund in good standing at the time of the appointment or election. 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 which aid in financing it and the teachers who are its beneficiaries.

Subd. 2. The board shall annually elect one of its members as president. It shall elect an executive director, and fix his salary and the salary of the assistant executive director in the unclassified service. The executive director shall serve during the pleasure of the board and be the executive officer of the board, with such duties as the board shall prescribe. The board shall employ all other clerks and employees necessary to properly administer the fund. The cost and expense of administering the provisions of this chapter shall be paid by the fund. The executive director shall be appointed by the board on the basis of fitness, experience in the retirement field and leadership ability. The executive director shall have had at least five years of experience on the administrative staff of a major retirement system.

Subd. 2a. 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 advisor 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 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;
- (4) Designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service 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;
- (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) Certify funds available for investment to the state board of investment;

(13) With the advice and approval of the board request the state board of investment to sell securities when he determines that funds are needed for the purposes of the association;

(14) Prepare and submit biennial and annual budgets to the board and with the approval of the board submit such budgets to the department of administration; and

(15) 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. 3. The state treasurer shall be ex officio treasurer of the fund and his general bond to the state shall cover any liabilities for his acts as treasurer of the fund. He shall receive all moneys payable to the fund and pay out the same only on warrants issued by the commissioner of finance upon forms signed by the executive director.

Subd. 4. All members of the board shall serve without compensation but shall receive necessary expenses while attending all meetings of the board or meetings of any committee authorized by the board, to be paid out of the fund. Necessary expenses may include the salary of any substitute teacher which the employing unit is required to hire. The board may reimburse the employing unit for the salary of the substitute teacher. Members of the board shall suffer no loss of compensation from their employing units by reason of service on or for the board or any committee authorized by the board.

Subd. 5. The board shall meet regularly at its office at such times as it shall determine. Special meetings may be held at any time at the call of the president of the board or of any three members thereof.

Subd. 6. The fiscal year of the fund shall begin on the first day of July of each year and end on the 30th day of June of the following year.

Subd. 7. A suitable office shall be provided by the state through the proper officer for the use of the board and its executive director.

History: 1931 c 406 s 3; 1955 c 361 s 1; Ex1959 c 50 s 5; Ex1961 c 17 s 2,3; 1963 c 585 s 1; 1969 c 485 s 3,4; 1974 c 289 s 9,10; 1975 c 306 s 5; 1977 c 67 s 2,3,13; 1977 c 429 s 36; 1980 c 342 s 9; 1981 c 160 s 1,2; 1981 c 224 s 103; 1982 c 578 art 1 s 5 (2950-3)

354.07 POWERS OF THE BOARD.

Subdivision 1. The board shall have, and is hereby granted, power to frame bylaws for its own government and for the management of the fund not inconsistent with the laws of the state and to modify them at pleasure; to adopt, alter, and enforce reasonable rules and regulations not inconsistent with the laws of the state for the administration and management of the fund, for the payment and collection of payments from members, and for the payment of withdrawals and benefits; to pass upon and allow or disallow all applications for membership in the fund and for credit for teaching service; to pass upon and allow or disallow all claims for withdrawals, pensions, or benefits payable from the fund; to adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary, with interest set at the rate specified in section 356.215, subdivision 4, clause (4); to provide for the payment out of the fund of all necessary expenses for the administration thereof and of all claims for withdrawals, pensions, or benefits allowed.

Subd. 2. In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the claimant, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine the validity and merit of the same.

Subd. 3. The board may sue or be sued in the name of the board of trustees of the teachers retirement fund and in all actions brought by or against it the board shall be represented by the attorney general.

Subd. 4. It shall be the duty of the board from time to time to certify to the state board of investment for investment as much of the funds in its hands as shall not be needed for current purposes. Such funds that are certified to the variable annuity division shall include employee deductions as well as an equal amount for state's matching. Such funds that are certified as to investment in the post-retirement investment fund shall include the amount as required for the total reserves needed for the purposes described in section 354.63. The state board of investment shall thereupon transfer such assets to the appropriate fund provided herein, in accordance with the procedure set forth in sections 354.62 and 354.63, or invest and reinvest an amount equal to the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for state employees retirement fund and all such securities so transferred or purchased shall be deposited with the state treasurer. All interest from these investments shall be credited to the appropriate funds and used for current purposes or investments, except as hereinafter provided. The state board of investment shall have authority to sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and shall sell securities upon request of the officers of the association when such officers determine 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 teachers' retirement fund.

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Subd. 5. The board shall keep a record of the receipts and disbursements of the fund and a separate account with each member of the fund. The board shall also keep separate accounts for annuity payments, for employer contributions and all other necessary accounts and reserves. It shall determine annually the annual interest earnings of the fund which shall include realized capital gains and losses. Any amount in the capital reserve account on July 1, 1973 shall be transferred to the employer contribution's account. The annual interest earnings shall be apportioned and credited to the separate members' accounts except those covered under the provisions of section 354.44, subdivisions 6 or 7. The rate to be used in this distribution computed to the last full quarter percent shall be determined by dividing the interest earnings by the total invested assets of the fund. The excess of the annual interest earnings in the excess earnings reserve which was not credited to the various accounts shall be credited to the gross interest earnings for the next succeeding year.

Subd. 6. [Repealed, 1969 c 485 s 40]

Subd. 7. Notwithstanding chapter 16, or any law to the contrary, the board may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a portion of such services.

Subd. 8. No provision of this chapter shall create or give any contract rights to any person.

Subd. 9. All school districts, state universities, community colleges and other employers of members of the fund are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing fund information which are prepared by the executive director or the board and are delivered to the employers for distribution.

History: 1931 c 406 s 4; 1949 c 708 s 1; 1951 c 481 s 1; 1953 c 750 s 1; 1961 c 380 s 3; Ex1961 c 17 s 4; 1965 c 305 s 2; 1969 c 485 s 5; 1971 c 40 s 4; 1973 c 270 s 3; 1973 c 728 s 4; 1974 c 289 s 11; 1975 c 306 s 6,7; 1977 c 67 s 4; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 104 (2950-4)

354.08 [Repealed, 1974 c 289 s 59]

354.09 Subdivision 1. [Repealed, 1981 c 224 s 276]

Subd. 2. [Repealed, 1974 c 289 s 59]

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. [Repealed, 1981 c 224 s 276]

Subd. 5. [Repealed, 1973 c 728 s 32]

354.091 SERVICE CREDIT.

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1969 (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, 1969 shall be computed pursuant to the law in effect at the time it was rendered.

In no event shall any teacher lose or gain retirement service credit as a result of the employer converting to a four day work week. If the employer does convert to a four day work week, the forms for reporting and procedures for determining service credit shall be determined by the executive director with the approval of the board of trustees.

History: 1974 c 289 s 13; 1981 c 160 s 3; 1982 c 578 art 1 s 6

354.092 SABBATICAL LEAVE.

If a member is granted a sabbatical leave, he may receive allowable service credit not exceeding three years in any ten consecutive years toward a retirement annuity by paying into the fund employee contributions during the period of leave. The employee contribution shall be based upon the appropriate rate of contributions and the salary received during the year immediately preceding the leave. This payment shall be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated, and shall be without interest. A member shall not accrue more than three years allowable service by reason of this section unless the allowable service credit was paid for by the member prior to July 1, 1962. A sabbatical leave for the purpose of this section shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. If the employee contributions during the period of the leave are less than the contributions based on the salary received during the year immediately preceding the leave, the formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (3), except that if the member is paid full salary for any sabbatical leave of absence, either past or prospective, the formula service credit shall not be prorated.

History: 1974 c 289 s 54; 1975 c 306 s 8; 1981 c 160 s 4

354.093 MATERNITY LEAVE.

A member of the fund granted parental or maternity leave of absence by the employing authority shall be entitled to service credit not to exceed one year for the period of leave upon payment to the fund by the end of the fiscal year following the fiscal year in which the leave of absence terminated. The amount of such payment shall include the required employee, employer and amortization contributions for the period of leave prescribed in section 354.42. Such payment shall be based on the member's average monthly salary upon return to teaching service, and shall be without interest. Repayment shall be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

History: 1976 c 329 s 29

354.094 EXTENDED LEAVES OF ABSENCE.

Subdivision 1. **Service credit contributions.** If a member is granted an extended leave of absence pursuant to section 125.60 or 136.88, except as provided in subdivision 1a he may receive allowable service credit toward annuities and other benefits under this chapter, for each year of his leave by paying into the fund employee contributions during the period of the leave which shall not exceed five years. Except as provided in subdivision 1a, the state shall pay employer contributions into the fund for each year for which a member who is on extended leave pays employee contributions into the fund. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before June 30 of each fiscal year for which service credit is received.

Subd. 1a. **Restrictions.** Notwithstanding subdivision 1, the following provisions apply to elementary, secondary and area vocational-technical school teachers whose extended leaves begin in the 1981-1982 school year and each year thereafter:

(a) Only a member whose application states the intention to pay employee contributions into the fund, requests state payment of employer contributions, and is approved by the commissioner within the limits of section 125.60, subdivision 7, qualifies for the payment of employee contributions and for state payment of employer contributions pursuant to subdivision 1;

(b) The state shall pay employer contributions for a member described in clause (a) for no more than the first three years of the leave;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and his employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Subd. 2. **Membership; retention.** Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to subdivisions 1 and 1a shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if he had continued to teach in the district, the community college system or the state university system.

Subd. 3. **Effect of nonpayment.** A member on extended leave of absence pursuant to section 125.60 or 136.88 who does not pay employee contributions or whose employer contribution is not paid into the fund in any year shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter and may not pay employee or employer contributions into the fund in any subsequent year of the leave. Nonpayment of contributions into the fund shall not affect the rights or obligations of the member or his employer under section 125.60 or 136.88.

Subd. 4. If a member who pays employee contributions into the fund for the agreed maximum duration of an extended leave does not resume teaching in the first school year after that maximum duration has elapsed, he shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter.

Subd. 5. The provisions of this section shall not apply to a member who is discharged or placed on unrequested leave of absence or retrenchment or lay-off or whose contract is terminated while he is on an extended leave of absence pursuant to section 125.60 or 136.88.

Subd. 6. A member who pays employee contributions and receives allowable service credit in the fund pursuant to this section may not pay employee contributions or receive allowable service credit for the same fiscal year in any other Minnesota public employee pension plan, except a volunteer firefighters' relief association governed by sections 69.771 to 69.776. This subdivision shall not be construed to prohibit a member who pays employee contributions and receives allowable service credit in the fund pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not pay retirement contributions or receive allowable service credit in the fund for teaching service rendered for any part of any year for which he pays retirement contribu-

tions or receives allowable service credit pursuant to this section or section 354A.091 while on an extended leave of absence pursuant to section 125.60.

History: 1977 c 447 art 9 s 3; 1978 c 764 s 116,117; 1979 c 334 art 8 s 14,15; 1980 c 454 s 2-5; 1980 c 618 s 4; 1981 c 358 art 8 s 9-12

354.10 FUND NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.

The right of a teacher to avail himself of the benefits provided by this chapter, is a personal right only and shall not be assignable. All moneys to the credit of a teacher's account in the fund or any moneys payable to him from the fund shall belong to the state of Minnesota until actually paid to the teacher or his beneficiary pursuant to the provisions of this chapter. Any power of attorney, assignment or attempted assignment of a teacher's interest in the fund, or of the beneficiary's interest therein, by a teacher or his beneficiary, including actions for divorce, legal separation, and child support, shall be null and void and the same shall be exempt from garnishment or levy under attachment or execution and from taxation under chapter 291. Provided however, the board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive such annuity or benefit. Upon completion of the proper forms as provided by the board, the annuity or benefit check may be mailed to a banking institution, savings association or credit union for deposit to the recipient's individual account or joint account with his or her spouse. The board shall prescribe the conditions which shall govern these procedures. If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe. Any beneficiary designated by a teacher under the terms of this chapter, may be changed or revoked by the teacher at his pleasure, in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating him dies, and a new beneficiary is not designated, the teacher's estate shall be the beneficiary.

History: 1931 c 406 s 10; 1955 c 361 s 8; 1961 c 745 s 1; 1971 c 789 s 6; 1974 c 289 s 14; 1975 c 306 s 9; 1977 c 67 s 5; 1978 c 772 s 62; 1979 c 303 art 3 s 30 (2950-10)

354.11 [Repealed, 1974 c 289 s 59]

354.12 [Repealed, 1974 c 289 s 59]

354.13 [Repealed, 1974 c 289 s 59]

354.14 [Repealed, 1974 c 289 s 59]

354.145 [Repealed, 1974 c 289 s 59]

354.146 RETIREMENT PROGRAMS.

Subdivision 1. Every member who has rendered teaching service or was on an authorized leave of absence after June 30, 1972 is covered by the full formula program except that those members who have contributed to the variable annuity fund are covered by the combined formula and variable annuity program. A former member who does not return to teaching service prior to retirement shall have his benefit determined under the program in effect at the time of termination.

Subd. 2. If a member had previously elected the total variable annuity program, a portion of his variable annuity account accumulations will be transferred to his formula account and become a part of his accumulated deductions. An equal amount of state contributions shall be transferred from the variable annuity fund to the teachers retirement fund. Such transfers shall be in an amount equal to four-sevenths of the value of the member's variable annuity account as of June

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30, 1974, except that only one-half of the contributions made during the fiscal year ending June 30, 1974 shall be transferred.

Subd. 3. After June 30, 1974, every new teacher entering teaching service or resuming teaching service after previously accepting a refund shall be covered by the full formula program.

History: 1974 c 289 s 15

- 354.15 [Renumbered 354A.01]
- 354.16 [Renumbered 354A.02]
- 354.17 [Renumbered 354A.03]
- 354.18 [Renumbered 354A.04]
- 354.19 [Renumbered 354A.05]
- 354.20 [Renumbered 354A.06]
- 354.201 [Renumbered 354A.07]
- 354.21 [Renumbered 354A.08]
- 354.22 [Renumbered 354A.09]
- 354.23 [Renumbered 354A.10]
- 354.231 [Renumbered 354A.11]
- 354.31 [Repealed, 1974 c 289 s 59]
- 354.32 [Repealed, 1974 c 289 s 59]

354.33 COMPUTATION OF RETIREMENT ANNUITIES.

- Subdivision 1. [Repealed, 1974 c 289 s 59]
- Subd. 2. [Repealed, 1974 c 289 s 59]
- Subd. 3. [Repealed, 1974 c 289 s 59]
- Subd. 4. [Repealed, 1974 c 289 s 59]

Subd. 5. Notwithstanding the provisions of section 354.55, subdivision 3, when any person retires after July 1, 1973 who (a) has ten or more years of allowable service, and (b) does not have any retroactive social security coverage by reason of his position in the retirement system, and (c) does not qualify for old age and survivor primary benefits at the time of retirement, the annuity shall be computed under section 354.44, subdivision 2 of the law in effect on June 30, 1969, except that accumulations after June 30, 1957, shall be calculated using the same mortality table and interest assumption used to transfer the required reserves to the Minnesota post-retirement investment fund.

Subd. 6. When any person retires and whose annuity is computed as a coordinated member as a result of (1) his transfer from public school teaching to state university teaching, and/or; (2) not rendering teaching service within a fiscal year; shall have his annuity computed as a basic member for such service formerly accrued as a basic member.

- Subd. 7. [Repealed, 1974 c 289 s 59]
- Subd. 8. [Repealed, 1974 c 289 s 59]
- Subd. 9. [Repealed, 1974 c 289 s 59]

History: *Ex1957 c 15 s 3; Ex1959 c 50 s 23,26; 1963 c 586 s 1; 1965 c 804 s 1; 1965 c 821 s 6; 1967 c 3 s 1; 1969 c 485 s 8,9; 1971 c 40 s 10-12; 1973 c 728 s 8-11; 1974 c 289 s 17; 1975 c 321 s 2; 1980 c 607 art 14 s 45 subd 2*

- 354.34 [Repealed, 1974 c 289 s 59]

354.35 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY.

Any coordinated member who retires before he is eligible for social security retirement benefits, may elect to receive retirement benefits from the association in an amount greater than his annuity computed on the basis of his age when he retires. He shall exercise this option by making an application to the board on a form provided by the board. This greater amount shall be the actuarial equivalent of the member's annuity computed on the basis of his age when he retires. The greater amount shall be paid until the member reaches the age of 65 at which time the payment from the association shall be reduced. These annuities provided in this section shall be computed by an approved actuary.

History: *Ex1957 c 15 s 5; 1974 c 289 s 18*

354.36 [Repealed, 1974 c 289 s 59]

354.37 [Repealed, 1974 c 289 s 59]

354.38 [Repealed, 1974 c 289 s 59]

354.39 EFFECTIVE DATE; APPLICATION.

After July 1, 1971, any member of the teachers retirement association employed in a new state university and other new institutions of higher learning not included in any agreement or modification made between the state and the secretary of health, education and welfare, making the provisions of the federal old age and survivors insurance act applicable to such members, shall be covered under the provisions of this chapter applicable to coordinated members.

History: *Ex1957 c 15 s 9; Ex1959 c 50 s 46; 1973 c 728 s 12; 1974 c 289 s 19; 1975 c 321 s 2*

354.41 TEACHERS RETIREMENT ASSOCIATION, ELIGIBILITY FOR MEMBERSHIP.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. Every teacher after June 30, 1957, in the service or entering the service of the state or its governmental subdivision as a teacher, except persons specially excluded, shall become a member of the association by the acceptance of such employment.

Subd. 3. (1) Each annuitant, age 60 or over, who is drawing an annuity pursuant to Minnesota Statutes 1953, Section 135.10 and Minnesota Statutes 1965, Sections 354.44 and 354.33 shall have the right to have his membership in the fund restored upon resumption of teaching service, for the purpose of having deductions made in accordance with sections 354.42 and 355.48. Upon completion of five years of allowable service, under this subdivision the member shall be entitled to a coordinated annuity provided in section 354.44, subdivision 6. This annuity is in addition to any annuity previously granted under this chapter.

(2) Any annuitant qualifying for membership in the fund under clause (1) may file a written notice with the executive director of the teachers retirement association requesting that deductions provided for in section 354.42 be made from compensation paid for subsequent teaching services. Such notice shall remain in effect until the annuitant requests in writing that this membership be revoked. After July 1, 1967, deductions pursuant to section 355.48 are required for any annuitant eligible for membership in the fund under clause (1). Teaching service rendered by an annuitant for which no deductions were made pursuant to section 354.42, shall not be included in any additional annuity granted pursuant to clause (1) of this subdivision.

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(3) Teachers retirement deductions made prior to July 1, 1973 from the salary of any annuitant who was qualified for membership in the fund under clause (1) of this subdivision at the time such deductions were made, shall be applicable to the computation of an annuity as provided under clause (1) of this subdivision even if the written notice required in clause (2) of this subdivision has not been filed. The teaching service related to such retirement deductions shall be deemed to be allowable service credit which is applicable to the completion of the five years of allowable service required in clause (2) of this subdivision.

Subd. 4. Any person who is a former member and is presently employed by the Minnesota federation of teachers or its affiliated branches within the state, the Minnesota education association, the Minnesota association of school principals, the Minnesota association of secondary school principals or the Minnesota association of school administrators may elect to be a coordinated member in the fund based on such employment; provided, however, that no person shall also be entitled to such membership if he is also a member of a teachers retirement association in a city of the first class organized pursuant to chapter 354A for the same period of service. For such persons so employed on June 30, 1975, the election must be made prior to July 1, 1976. For such persons so employed after June 30, 1975, the election must be made upon commencing employment.

Subd. 5. For all members described in subdivision 4, the employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein; provided, however, that the employer organization enumerated in subdivision 4 employing such member 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 teachers retirement association pursuant to section 354.42, except that if any such member is on leave of absence from a governmental employer unit, these contributions shall be forwarded by the employer organization to the governmental employer unit for remittance to the fund as described in this chapter.

Subd. 6. [Repealed, 1981 c 224 s 276]

Subd. 7. Members of the fund as described in subdivision 4 shall not be eligible for election to the board of trustees.

Subd. 8. [Repealed, 1981 c 224 s 276]

Subd. 9. Any member who has been granted a leave of absence to serve as an elected officer of a professional teachers organization shall be entitled to acquire allowable service credit for the period of leave. To acquire the allowable service credit, the member shall make any required employee contributions currently during the period of the leave, which shall be based upon the contract salary for which the member would have been eligible if the member had not been granted the leave of absence and shall be consistent with the contract in force for the year occurring immediately prior to the commencement of the leave of absence. Any shortage which occurs in the amount of required employee contributions for any year may be paid directly to the fund with interest at the rate of six percent per annum compounded annually on or prior to the last day of the fiscal year next following the occurrence of the shortage.

History: *Ex1957 c 16 s 3; Ex1959 c 50 s 27,28; 1967 c 693 s 1; 1971 c 40 s 15; 1973 c 728 s 13; 1975 c 306 s 10-13; 1977 c 67 s 6.13; 1977 c 97 s 2; 1978 c 796 s 41.42; 1981 c 160 s 5*

354.42 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. The employee contribution to the fund shall be an amount equal to four and one-half percent of the salary of every coordinated member and eight and one-half percent of the salary of every basic member. This contribution shall be made by deduction from salary. 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 entire salary received. For purposes of financing the various options related to the variable annuity division, employee variable annuity contributions will be credited in accordance with section 354.62, subdivision 2.

Subd. 3. The employer contribution to the fund shall be an amount equal to 4-1/2 percent of the salary of each coordinated member and 8-1/2 percent of the salary of each basic member. This contribution shall be made in the manner provided in section 354.43. For purposes of financing the various options related to the variable annuity division, employer contributions equal to the employee variable annuity contributions prescribed in section 354.62, subdivision 2, shall be allocated at the same time to the employer variable annuity contribution account in section 354.62, subdivision 3.

Subd. 4. [Repealed, 1969 c 485 s 40]

Subd. 5. An additional employer contribution shall be made in the amount of 3.05 percent of the salary of each member for the purpose of amortizing the deficit in the fund. This contribution shall be made in the manner provided in section 354.43.

Subd. 6. [Repealed, 1974 c 289 s 59]

Subd. 7. (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the school district or institution making the deduction, be refunded to the employee.

(2) 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 school district or institution making the payment, a refundment of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the school district or institution provided application for it is made on a form furnished by the retirement board.

History: *Ex1957 c 16 s 4; Ex1959 c 50 s 30; 1965 c 821 s 8-10; 1967 c 834 s 4-6; 1969 c 485 s 13-16; 1973 c 270 s 9; 1973 c 728 s 14-16; 1974 c 289 s 20,21; 1977 c 313 s 1; 1978 c 781 s 3; 1979 c 293 s 1,2*

354.43 EMPLOYER CONTRIBUTIONS, FINANCING.

Subdivision 1. Except as provided in subdivision 3, at least once each month the executive director shall determine the amount of money necessary and presently needed to meet the state's obligation as provided in this chapter, and shall certify the amount so determined to the commissioner of finance. The amount so certified shall be transferred immediately to the teacher's retirement fund.

Subd. 2. [Repealed, 1980 c 614 s 191]

Subd. 3. Each school district, state university, community college and any other employing authority of members of the fund shall be obligated for employer contributions in accordance with the provisions of sections 354.42, subdivisions 3 and 5, and 355.46, subdivision 3, as provided in this section. With respect to state employees, each department and agency shall pay the amounts required by section 354.42, subdivisions 3 and 5 from the accounts and funds from which each department or agency receives its revenue, including appropriations from the

general fund and from any other fund, now or hereafter existing, for the payment of salaries and in the same proportion as it pays therefrom the amounts of the salaries. The payments shall be charged as an administrative cost by these units of state government. For other reporting units, that portion of the employer contributions based on salaries paid from sources other than normal school operating funds as defined in section 354.05, subdivision 27 shall be remitted to the teachers retirement association. The remittance shall be accompanied by a satisfactory certification which shows the total of all salaries paid which are subject to teachers retirement deductions. The certification shall also show the total amount of salaries paid from normal school operating funds and the total amount of salaries paid from sources other than normal school operating funds as defined in section 354.05, subdivision 27. For each individual salary included in the total of all salaries paid from sources other than normal school operating funds as defined in section 354.05, subdivision 27, the certification shall show each person's name, his salary or related portion of salary and remittance of employer contributions related to the salary for each person included in the actual remittance.

Subd. 4. When the amount of the remittances provided pursuant to section 354A.12, subdivision 3, and subdivision 3 is equal to the social security receivable as defined in section 354.05, subdivision 29, the executive director shall reduce the certifications pursuant to subdivision 1 by an amount equal to the employing authorities certifications and remittances as described in subdivision 3.

Subd. 5. Any excess employer contributions paid by the state in behalf of an employing authority of members of the fund as the result of a false or wrongful certification shall be the obligation of the employing authority which made such false or wrongful certification. Such excess employer contributions shall be recovered by the state by appropriate means including recovery from state aid or other funds payable to the employing authority.

History: *Ex1957 c 16 s 5; Ex1959 c 50 s 8; 1961 c 745 s 2; 1965 c 821 s 15; Ex1967 c 32 art 3 s 2; 1969 c 399 s 46; 1969 c 485 s 17; 1971 c 535 s 3,4; 1973 c 349 s 2; 1974 c 289 s 22,23; 1975 c 306 s 14,15; 1975 c 321 s 2; 1977 c 67 s 7,13; 1981 c 224 s 105; 1981 c 356 s 355*

354.44 RETIREMENT BENEFITS.

Subdivision 1. **Requirements as to age and service.** Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than ten years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Subd. 1a. **Mandatory retirement.** Notwithstanding the provisions of sections 43A.11 or 197.455 to 197.48, a member shall terminate employment at the end of the academic year in which the member reaches the age of 70. For purposes of this subdivision, an academic year shall be deemed to end August 31. A member who terminates employment at any time during the academic year at the end of which the person is age 65 or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at age 65 or older pursuant to section 356.32. Nothing contained in this subdivision shall preclude an employing unit covered by this chapter from employing a retired teacher as a substitute or part time teacher. Any person who has attained the age of at least 65 years, who is employed as a substitute or part time teacher and who earns an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance

program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403, in any academic year from employment as a substitute or part time teacher, shall terminate employment for the remainder of that academic year. No person who is required to terminate employment as a teacher by virtue of this subdivision shall resume membership in the retirement association as a result of subsequent employment as a substitute or part time teacher.

Subd. 2. Computation of money purchase annuity. The amount of retirement annuity is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest thereon. The annuity shall be determined by the member's age, his sex, double the amount of his accumulated deductions, double the interest earned on the accumulated deductions, and the appropriate mortality tables and interest rates. For the purpose of determining the amount of the annuity for a basic member, the accumulated deductions prior to July 1, 1957, and the accumulated deductions subsequent to July 1, 1957, shall be considered separately.

(1) For service rendered prior to July 1, 1957, the accumulated deductions for any member shall be carried forward at a fixed amount which is shown credited to his account as of that date. That fixed amount shall also include any payments in lieu of salary deductions which are to be made in the future and are actually so made pursuant to an agreement executed between the member and the board as authorized by section 354.50 or any other authorized payments made by the member to the fund. The annuity granted with respect to such period shall be determined by the following:

(a) The fixed amount of the accumulated deductions for such period including the interest credited thereon as earned up to July 1, 1957.

(b) Annuity purchase rates based on the mortality tables and interest assumption used by the board prior to July 1, 1957 in the case of basic members and an annuity purchase rate based on an appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1, in the case of coordinated members.

(2) For service rendered subsequent to July 1, 1957, the accumulated deductions for any member shall consist of the amounts actually credited to his account by reason of salary deductions. The annuity granted with respect to such period shall be determined by the following:

(a) accumulated deductions for such period;

(b) interest credited on these accumulated deductions from July 1, 1957, to the date of retirement;

(c) interest credited on accumulated deductions including prior credited interest provided in paragraph (1) from July 1, 1957, to the date of retirement;

(d) after the amount available for an annuity granted with respect to such person is determined in accordance with the provisions of this subdivision, an additional amount equal to 20 percent of the sum of clause (2) (a) plus interest credited to members account from July 1, 1957 to date of retirement is to be added. This added amount is not to be doubled as provided for other amounts determined in this subdivision;

(e) annuity purchase rate based on an appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1.

Subd. 3. Application for retirement. Retirement may be made upon application of the member or of someone acting in his behalf.

Subd. 4. Time and manner of payments. A member may make application to the board for a retirement annuity any time after the member has satisfied the age and service requirements of this chapter for retirement except that no

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application for retirement may be made more than 60 days before termination of teaching service. The annuity payment shall begin to accrue after the termination of teaching service, or after the application for retirement has been filed with the board, whichever is later, as follows:

(a) on the sixteenth day of the month of termination or filing if the termination or filing occurs on or before the fifteenth day of the month or

(b) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the sixteenth day of the month but in no event shall an annuity begin to accrue more than one month prior to the date of final salary receipt.

Subd. 5. Resumption of teaching. Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which this chapter applies shall continue to receive payments in accordance with the annuity except that during any quarter in which the person's income from the teaching service is in an amount equal to or greater than the quarterly maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the quarterly maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable re-employment income maximum specified in this subdivision shall be deducted from the annuity payable for the quarter immediately following the quarter in which the excess amount was earned. After a person has reached the age of 72, the person shall receive the annuity in full regardless of the amount of income.

Subd. 6. Computation of formula program retirement annuity. (1) The formula retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in clause (2) hereof on the basis of each member's average salary for the period of his formula service credit. For the purposes of computing the formula benefits under the formula and variable program, if a combination of these formulas is used, the formula percentages used will be those percentages in each formula as continued for the respective years of service from one formula to the next.

For all years of formula service credit "average salary" for the purpose of determining the member's retirement annuity means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, Section 354.511 for the highest five successive years of formula service credit provided however that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments.

(2) The average salary as defined in clause (1), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	1.0 percent per year	2.0 percent per year
Each year of service thereafter	1.5 percent per year	2.5 percent per year

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(3) Where any member retires prior to age 65 under a formula annuity, he shall be paid a retirement annuity in an amount equal to the normal annuity provided in this subdivision and subdivision 7, reduced by one-half of one percent for each month that the member is under age 65 to and including age 60 and reduced by one-fourth of one percent for each month under age 60 at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month which the member is under age 62.

Subd. 7. Computation of formula and variable program retirement annuity. The benefits provided in this subdivision are the sum of the benefits provided by the following:

(1) The benefits provided in subdivision 6, clause (2) for formula service credit prior to the effective date of the original election of this subdivision and subsequent to June 30, 1978 unless the member elects continued participation in the variable program pursuant to section 354.621, and

(2) The benefits for service credit subsequent to the effective date of the formula and variable program but prior to July 1, 1978 and the benefits for service credit subsequent to June 30, 1978 if the member elects continued participation in the variable program pursuant to section 354.621, shall be the average salary as defined in subdivision 6, clause (1) of any member multiplied by the following percentages per year of formula service credit.

	Coordinated Member	Basic Member
Each year of service during first ten	.5 percent per year	1.0 percent per year
Each year of service thereafter	.75 percent per year	1.25 percent per year, and

(3) the benefits provided in section 354.62, subdivision 5.

Subd. 8. Annuity payment; evidence of receipt. Payment of an annuity or benefit for a given month shall be paid during the first week of that month. Evidence of receipt of the check issued in payment of an annuity or benefit shall be submitted by the payee or a banking institution on a form prescribed by the executive director. The evidence of receipt form shall be submitted periodically at times specified by the board. In the event the required evidence of receipt form is not submitted, future annuities or benefits shall be withheld until the form is submitted.

History: *Ex1957 c 16 s 6; Ex1959 c 50 s 10-12; 1961 c 745 s 3; Ex1961 c 17 s 11; 1963 c 246 s 1; 1965 c 821 s 11; 1967 c 693 s 2; 1969 c 485 s 18,19; 1971 c 40 s 16; 1973 c 270 s 10; 1973 c 728 s 17-19; 1974 c 289 s 24-28; 1975 c 306 s 16-18; 1976 c 329 s 30; 1977 c 67 s 8; 1977 c 429 s 37; 1978 c 781 s 4; 1979 c 50 s 46,47; 1980 c 342 s 10-12; 1980 c 509 s 135; 1981 c 160 s 6,7; 1981 c 210 s 54; 1981 c 224 s 106-111; 1Sp1981 c 4 art 1 s 21; art 2 s 33*

354.45 OPTIONAL RETIREMENT ANNUITIES; UNPAID ANNUITIES, DISPOSITION.

Subdivision 1. The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. The board shall also establish an optional annuity which shall take the form of a guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the accumulated deductions will be paid to the designated beneficiary. Such optional forms shall be actuarially equivalent to the normal forms provided in section 354.44. In establishing these optional forms the

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board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

Subd. 2. Upon the death of the member after retirement where no designated beneficiary shall survive the member, any remaining unpaid guaranteed annuity payments shall be commuted at the rate of interest currently being used in determining the amount of optional annuities and paid in one sum to the estate of the member. Upon the death of the last designated beneficiary after the death of the member, the value of any unpaid guaranteed annuity payments shall be commuted at the rate of interest currently being used in determining the amount of optional annuities and paid in one sum to the estate of such designated beneficiary.

History: *Ex1957 c 16 s 7; Ex1961 c 17 s 12; 1963 c 845 s 5; 1971 c 40 s 17; 1973 c 728 s 20*

354.46 PAYMENTS AFTER DEATH.

Subdivision 1. **Basic program; benefits for spouse and children of teacher.** If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6 equal to or greater than \$75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies prior to attaining the age of 65 years, the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

- (a) Surviving dependent spouse 30 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death
- (b) Each dependent child ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed \$700 for any one family, and the minimum benefit per family shall not be less than 30 percent of the basic member's average salary, subject to the foregoing maximum. The surviving dependent spouse benefit shall terminate upon remarriage, and the surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a

refund of accumulated deductions with interest in a lump sum as provided pursuant to sections 354.47, subdivision 1 or 354.62, subdivision 5, clause (3). If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Subd. 2. Death while eligible designated beneficiary benefit. The surviving spouse of any member who has attained the age of at least 55 years and has credit for at least 20 years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to sections 354.47, subdivision 1, or 354.62, subdivision 5, clause (3), whichever is applicable, the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivisions 2, 6 or 7, whichever is applicable. If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1). The benefit shall be payable for life.

Subd. 3. Payment after death of retiree. If a former member dies after his retirement, he or his designated beneficiary shall be entitled to the annuity payment due for the full month during which death occurs if no optional or reversionary annuity was designated by the member. If an optional or reversionary annuity has been designated by the member, a death benefit shall be paid in accordance with the provisions of such annuity as described in section 354.45.

Subd. 4. [Repealed, 1974 c 289 s 59]

Subd. 5. Payment to designated beneficiary. Any member and the spouse of the member may make a joint specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, shall be paid only to a designated beneficiary. For purposes of this subdivision, a designated beneficiary may only be either a former spouse or a child, either natural or adopted, of the member.

History: *Ex1957 c 16 s 8; Ex1959 c 50 s 13,14,47; 1961 c 737 s 1-3; 1967 c 604 s 2; 1969 c 485 s 20; 1971 c 40 s 18; 1971 c 86 s 1; 1973 c 728 s 31; 1974 c 289 s 29-31; 1975 c 306 s 19; 1977 c 388 s 2; 1981 c 156 s 1-3; 1982 c 578 art 1 s 7,8*

354.465 MODIFICATION IN SURVIVOR COVERAGE IN CERTAIN INSTANCES.

Any person who elected joint and survivor annuity coverage pursuant to section 354.46, subdivision 2, prior to July 1, 1981, and the spouse of the person shall be entitled to modify that election by making a joint specification in writing on a form prescribed by the executive director that the benefits provided in sections 354.46, subdivision 2, or 354.47, subdivision 1, whichever is applicable, shall be paid only to a designated beneficiary. Authority for any person and the spouse of the person to modify the prior election shall expire on the date of the retirement of the person who elected the coverage or the date of death of the person who elected the coverage whichever occurs first.

History: *1981 c 156 s 7; 1982 c 578 art 3 s 17*

354.47 REFUND AFTER DEATH.

Subdivision 1. **Death before retirement.** (1) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit pursuant to section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death.

(2) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivisions 6 and 7, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957 and from July 1, 1957 to the date of death the member's accumulated deductions plus interest at the rate of 3-1/2 percent per annum compounded annually.

(3) The amounts payable in clause (1) or clause (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.

Subd. 2. **Benefits of \$500 or less.** If a member or a former member dies without having designated a beneficiary, or if the beneficiary should die before making application for the refundment to the credit of such deceased member or former member, and the amount of the benefit is \$500 or less, the retirement board may 90 days after the date of death of the member or former member in the absence of probate proceedings make payment to the surviving spouse of the deceased member or former members, or, if none to the next of kin under the laws of descent of the state of Minnesota and such payment shall be a bar to recovery by any other person or persons. Any retirement allowance or annuity which shall have accrued at the time of death of an annuitant may be paid in like manner.

Subd. 3. [Repealed, 1974 c 289 s 59]

History: *Ex1957 c 16 s 9; Ex1959 c 50 s 48; Ex1961 c 17 s 13; 1963 c 845 s 6; 1965 c 821 s 12; 1969 c 485 s 21; 1971 c 40 s 19; 1974 c 289 s 32; 1980 c 342 s 13; 1981 c 156 s 4; 1981 c 224 s 112; 1982 c 578 art 3 s 3*

354.48 PERMANENT DISABILITY BENEFITS.

Subdivision 1. **Age, service and salary requirements.** Where any member became totally and permanently disabled after at least ten years of allowable service or after age 50 with five years of allowable service, whichever is sooner, he shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's teaching 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 disability benefits.

Subd. 2. **Applications.** Any person described in subdivision 1 may make application for a total and permanent disability benefit within 18 months following termination of teaching service but not thereafter. This benefit shall begin to accrue 90 days following the commencement of disability or the day following the date on which salary ceases, whichever is later, but shall not begin to accrue more than 90 days prior to the date the application is filed with the board. If salary is being received for either annual or sick leave during the period, payments shall accrue from the date salary ceases.

Subd. 3. **Computation of benefits.** (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clause (1) and (2) or clause (3) is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest thereon computed as though the teacher were age 65 at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974 and who failed to make an election pursuant to Minnesota Statutes 1971, Section 354.145, shall have his disability benefit computed under the provisions of this clause or clause (2) of this subdivision, whichever is larger.

The benefit granted shall be determined by the following:

- (a) The amount of the accumulated deductions;
- (b) Interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) Interest for the years from the date the benefit begins to accrue to the date such member attains age 65 at the rate which is the average rate credited for the five years prior to the date the benefit begins to accrue;
- (d) Annuity purchase rates based on an appropriate annuity table of mortality with interest assumption as provided in section 354.07, subdivision 1.

In addition a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

Age When Benefit Begins to Accrue	Supplementary Benefit
Under Age 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

(2) The disability benefit granted to members covered under section 354.44, subdivisions 6 or 7 shall be computed in the same manner as the annuity provided in subdivisions 6 or 7 of that section, whichever is applicable. The disability benefit shall be the formula annuity without the reduction for each month the member is under age 65 at the time the benefit begins to accrue.

(3) The optional annuity benefit provided in section 354.45 does not apply to this section.

(4) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Subd. 3a. **Optional annuity election.** A disabled member may elect to receive the normal disability benefit or an optional annuity as provided in section 354.45, subdivision 1. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective 30 days after receipt of the election or the date on which the disability benefit begins to accrue, whichever occurs later. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Subd. 4. **Determination by the board.** The board shall have the member examined by at least two licensed physicians selected by the medical advisor. These physicians shall make written reports to the board concerning the member's disability including medical opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14. The board shall also obtain written certification from the last 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 any other evidence presented by the member or others interested therein, the board finds the member totally and permanently disabled, it shall grant the member a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar the member from receiving a disability benefit.

Subd. 4a. MS1981 Supp [Repealed, 1982 c 578 art 3 s 19]

Subd. 5. **Benefits paid under other laws.** The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable workers' compensation laws.

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 disability beneficiary 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 advisor; duties.** The state commissioner of health or a licensed physician on the staff of the department of health designated by the commissioner shall be the medical advisor of the executive director. The medical advisor shall designate licensed physicians who shall examine applicants for disability benefits. The medical advisor shall pass upon all medical reports based on any examinations performed in order to determine whether a teacher is totally and permanently disabled as defined in section 354.05, subdivision 14. The medical advisor shall also investigate all health and medical statements and certificates by or on behalf of a teacher in connection with a disability benefit, and shall report in writing to the director setting forth any conclusions and recommendations on all matters referred to the medical advisor.

Subd. 7. **Partial re-employment.** Should the 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 lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

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 teaching service.** Any person receiving a disability benefit who is restored to active teaching service shall have deductions taken for the retirement fund.

Subd. 10. **Retirement status at age 65.** No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains the age of 65 years. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the age of 65 years, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person elect to receive either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years, whichever amount is greater, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. Election of an optional annuity shall be made prior to the person attaining the age of 65 years. If an optional annuity is elected, the election shall be effective on the date on which the person attains the age of 65 years and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains the age of 65 years.

History: *Ex1957 c 16 s 10; Ex1959 c 50 s 15; 1961 c 597 s 3; 1963 c 845 s 7; 1969 c 485 s 22.23; 1973 c 728 s 21; 1974 c 289 s 33-35; 1975 c 306 s 20.21; 1975 c 359 s 23; 1981 c 68 s 25.26; 1981 c 160 s 8-10; 1981 c 224 s 113.114; 1982 c 578 art 3 s 4.19*

354.49 REFUND.

Subdivision 1. Any person who ceases to render teaching service in any school or institution to which the provisions of this chapter apply shall be entitled to a refund provided in subdivision 2, or a deferred retirement annuity. Application for refund may be made no sooner than 30 days after termination of teaching service if the applicant has not again become a teacher. This payment will be made within 90 days after receipt of application for refund or upon completion of processing the report made pursuant to section 354.52, subdivision 2 whichever is later.

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refundment in an amount equal to his accumulated deductions without interest plus any variable annuity account accumulations payable pursuant to section 354.62, subdivision 5, clause (4).

Subd. 3. Any person who has attained the age of at least 65 with less than ten years of credited allowable service shall be entitled to receive a refund in an amount equal to his accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivisions 6 or 7 in which case the refund shall be an amount equal to his accumulated deductions credited to his account as of June 30, 1957 and after July 1, 1957 his accumulated deductions plus interest at the rate of three and one-half percent compounded annually.

Subd. 4. Membership in the retirement association of any person shall terminate under the following conditions: (1) If a person takes a refundment pursuant to this section; (2) When a person's retirement annuity first begins to accrue as provided in section 354.44, subdivisions 1 and 4; (3) Upon his ceasing to be a "teacher" whether by resignation, dismissal, or termination of temporary or

provisional employment for the purpose of determining eligibility for disability or survivorship benefits as provided in sections 354.48, subdivision 1 and 354.46, subdivision 1, respectively.

Subd. 5. If a person ceases to render teaching service in any school or institution to which the provisions of this chapter apply and does not make application for refund within five years after June 30th of the fiscal year in which the last deduction was taken from his salary for the retirement fund and if his accumulated deductions are \$500 or less, such deductions and interest shall be credited to and become a part of the retirement fund. In the event such person returns to render teaching service in any school or institution to which the provisions of this chapter apply and the deductions previously credited to the retirement fund are \$5 or more, such deductions and interest to date of restoration shall be restored to his individual account. If the deductions previously credited to the retirement fund are \$5 or more and such person applies for a refund pursuant to this section or an annuity pursuant to section 354.55, subdivision 3, such deductions credited to the retirement fund shall be restored to such person's individual account.

History: *Ex1957 c 16 s 11; Ex1959 c 50 s 16,17; Ex1967 c 6 s 1-3; 1969 c 485 s 24; 1971 c 40 s 20-22; 1973 c 270 s 11; 1974 c 289 s 36-38; 1975 c 306 s 22; 1977 c 67 s 9; 1977 c 97 s 3; 1979 c 40 s 7*

354.50 TERMINATION OF SERVICE CREDITS.

Subdivision 1. When any member accepts a refund provided in section 354.49, all existing service credits 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 two years allowable service credit subsequent to taking his last refund. In that event he may repay such refund. If more than one refund has been taken, all refunds must be repaid.

Subd. 2. If a member desires to repay his refunds, payment shall include six percent interest compounded annually from date of withdrawal to the date payment is made and shall be credited to the fund.

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. Any person who has received a refund from the teachers retirement association and who is a member of any public retirement fund referred to in section 354.60 may repay such refund with interest to the teachers retirement association. Repayment of the refunds under the provisions of this subdivision will be in accordance with all the provisions of this section.

History: *Ex1957 c 16 s 12; Ex1961 c 17 s 14; Ex1967 c 6 s 4; 1969 c 485 s 25; 1971 c 40 s 23,24; 1973 c 728 s 22; 1974 c 289 s 39-41; 1977 c 67 s 10; 1981 c 224 s 115*

354.51 PAYMENTS TO RECEIVE CREDIT FOR PRIOR SERVICE; SHORTAGES IN MEMBER DEDUCTIONS.

Subdivision 1. No member shall be entitled to make payments in lieu of salary deductions to the retirement board to receive credit for any period of service prior to that date for which employee contributions were not deducted from his salary, except as provided in subdivision 4, or sections 354.50 or 354.53.

Subd. 2. [Repealed, 1974 c 289 s 59]

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. **Other state or school teaching service; purchase of credit.** Any teacher who has rendered teaching service prior to June 30, 1953, in another state,

or in a state public school which is not an employing unit with employees for whom retirement coverage is provided pursuant to this chapter, or for the University of Minnesota, who was a member of the fund prior to or after the uncredited teaching service, who is not entitled to any benefits from any other retirement system based on the uncredited teaching service, who has credit for at least 15 years of service as a member of the retirement fund with at least five years of service occurring subsequent to the period of uncredited teaching service, who became a member of the retirement fund prior to June 30, 1957, and who has not accepted a refund of accumulated member contributions or deductions and resumed teaching service covered by the retirement fund after July 1, 1957, shall be entitled to obtain service credit for the period of uncredited teaching service. To obtain service credit, a teacher shall make a payment equal to six percent of the average annual salary of the teacher for the five year period occurring immediately prior to the completion of the minimum service requirement or July 1, 1951, whichever is later, multiplied for the number of years of the period of uncredited teaching service, but not to exceed \$175 annually for any period of uncredited teaching service occurring prior to July 1, 1953, or \$216 annually for any period of uncredited teaching service occurring subsequent to June 30, 1953. The payment made by the teacher shall be accompanied by a matching payment representing the employer contribution. This matching employer contribution payment is to be made by the agency which formerly employed the teacher, except that, at its discretion, the payment may be made by the current employer of the teacher. The payments shall include interest at the rate of six percent per annum from the end of the year of uncredited service to the date on which payment is first made. Payment shall be made in a single payment unless the executive director authorizes installment payments. If the payment made is less than the full required payment, including interest, the formula service credit granted shall be adjusted in accordance with section 354.05, subdivision 25, clause (3). Any school district or institution which employs a teacher who makes a payment pursuant to this subdivision is authorized to make any required payments representing employer contributions and interest and the required amounts are hereby appropriated from any funds available to the school district or institution. Any payments made pursuant to this subdivision shall be considered accumulations made after July 1, 1957 for purposes of computing an annuity pursuant to section 354.44, subdivision 2. All payments shall be made to the executive director prior to July 1, 1973 or within one year after the completion of the minimum state teaching service requirements whichever is later.

Subd. 5. In the event that full required member contributions are not deducted from the salary of a teacher, payment shall be made as follows:

(a) Payment of shortages in member deductions on salary earned after July 1, 1961 and prior to July 1, 1981 shall be made within one year from the end of the fiscal year in which the shortage in deductions occurred in order to be accepted without an interest charge. If payment is not made within this period of time, it may be paid by the member any time prior to retirement provided that the payment shall include six percent interest compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall be prorated pursuant to section 354.05, subdivision 25, clause (3).

(b) Payment of shortages in member deductions on salary earned after June 30, 1981 shall be the sole obligation of the employing unit and shall be payable by the employing unit upon notification by the executive director of the shortage with interest at the rate of six percent per annum, compounded annually, from the end of the fiscal year in which the shortage occurred to the end of the month in which

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payment is made and the interest shall be credited to the fund. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

History: *Ex1957 c 16 s 13; Ex1959 c 50 s 18,19; 1969 c 485 s 26; 1971 c 40 s 25,26; 1974 c 289 s 42; 1981 c 160 s 11; 1981 c 224 s 116-118; 1982 c 578 art 3 s 19*

354.511 [Repealed, 1974 c 289 s 59]

354.52 REPORTS.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. Each school board or managing body shall, on or before August 1, each year, report to the teachers retirement board giving an itemized summary of the total amount withheld from the salaries of teachers for regular teacher's retirement deductions and for variable annuity deductions, and such other information as the executive director may require. If the itemized summary is received after August 1 in any year, there shall be a penalty not to exceed \$25 for each month or portion thereof which the summary is delinquent, as determined by the board of trustees. The penalty shall be paid by the school board or the managing body.

Subd. 3. It is the duty of each person, officer, school board, or managing body required by law to draw the warrants or orders for payment of salaries to teachers to deduct and withhold from all salary paid each pay period to every teacher who is a member of the fund the amount which the teacher is required to pay into the fund and, at the time of each deduction, to furnish to each teacher a statement showing the amount.

Subd. 4. At least once each month, the chief administrative officer of each employing school district or managing body of schools and institutions to which the provisions of this chapter apply shall transmit all amounts due and furnish a signed statement indicating the amount due and transmitted, and shall transmit a statement containing such other information as the executive director shall require. Signing the statement shall have the force and effect of an oath as to the correctness of the amount due and transmitted. Any amount thus due and not transmitted shall accrue interest at the rate of six percent compounded annually commencing 30 days after the date first due until the amount is transmitted and shall be paid by the employing school district or other managing body. The state treasurer shall credit all money received or withheld pursuant to the provisions of this chapter to the fund and the reports and date received by the state treasurer from each reporting agency shall be available for the board. Any person wilfully failing to perform any of the duties imposed upon him by this section shall be guilty of a misdemeanor.

Subd. 5. The state treasurer, the several county treasurers, and the treasurers of the various school districts and institutions to which the provisions of this chapter apply shall be officially liable for the receipt, handling, and disbursement of all moneys coming into their hands belonging to the fund and the sureties on the official bonds of each of these treasurers shall be liable for such moneys the same as for all other moneys belonging to the school funds of this state.

History: *Ex1957 c 16 s 16; 1963 c 584 s 1; 1965 c 447 s 1,2; 1969 c 485 s 27; 1974 c 289 s 43-45; 1981 c 160 s 12; 1981 c 224 s 119-121*

354.53 MILITARY SERVICE CREDIT.

Subdivision 1. Any employee given a leave of absence to enter military service and who returns to teaching service upon discharge from military service as provided in section 192.262, shall obtain credit for the period of military service but 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. The member shall obtain credit by paying into the fund an employee contribution based upon the salary of the member at the date of return from military service. The amount of this contribution shall be as follows:

Period	Basic Member	Coordinated Member
July 1, 1973 thru June 30, 1979	8 percent	4 percent
July 1, 1979 and thereafter	8.5 percent	4.5 percent

The contributions specified in this subdivision shall be multiplied by the number of years of military service together with interest thereon at the rate of six percent compounded annually from the time the military service was rendered to the first date of payment. The employer contribution and additional contribution provided in section 354.42 shall be paid by the state in the manner provided in section 354.43.

Subd. 2. All payments into the fund pursuant to this section shall be considered accumulations after July 1, 1957 for the purpose of computing any annuity in accordance with section 354.44, subdivision 2. If the contributions and interest thereon provided in this section are not paid in full, the member's formula service credit shall be calculated by multiplying the number of years of military service by the ratio obtained by the total amount paid and the maximum amount payable provided herein.

Subd. 3. Payments pursuant to this section shall be made within five years from the date of discharge.

History: *Ex1957 c 16 s 17; Ex1959 c 50 s 20; 1965 c 821 s 13; 1967 c 834 s 7; 1971 c 40 s 27; 1973 c 270 s 12; 1974 c 289 s 46; 1975 c 306 s 23; 1977 c 67 s 11; 1977 c 97 s 4; 1981 c 224 s 122,123*

354.531 AUTHORIZATION TO PURCHASE MILITARY SERVICE CREDIT.

Notwithstanding any law to the contrary, any member of the teachers retirement association who is a veteran as defined pursuant to section 197.971, subdivision 10, and who became eligible for the Vietnam expeditionary medal or the Vietnam service medal as the result of service during the period between July 1, 1958 and July 27, 1973 or served on active duty in the armed forces as defined pursuant to section 197.971, subdivision 3, during the period between August 5, 1964 and January 27, 1973, shall be entitled to obtain credit for the period of military service but service credit shall not be given 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.

History: *1982 c 427 s 1*

354.532 PAYMENT.

Subdivision 1. **Calculation of present value.** For the persons entitled to purchase prior service credit, there shall be paid to the applicable retirement fund or association an amount equal to the present value, on the date of payment, of

the amount of the additional service pension or retirement annuity which would be obtained by virtue of the purchase of the additional service credit, using the interest rate specified in section 356.215, subdivision 4, clause (4), and the applicable mortality table adopted for the appropriate retirement fund or association and assuming continuous service until, and retirement at, the normal retirement age with the additional service credit purchased, for the appropriate retirement fund or association, or the age at the date of payment or of the agreement to pay, whichever is older, and a future salary history which includes annual salary increases at the salary increase rate specified in section 356.215, subdivision 4, clause (4). The person requesting the purchase of prior service must establish in the records of the retirement fund or association proof of the service for which the purchase of prior service is requested. The manner of the proof of service shall be in accordance with procedures prescribed by the board of trustees of the fund or association or by the executive director.

Subd. 2. Payment of present value; crediting of service. Payment shall be made in one lump sum, unless the executive director of the appropriate retirement fund or association agrees to accept payment in installments over a period of not to exceed three years from the date of the agreement, with interest at a rate deemed appropriate by the executive director. The period of allowable service shall be credited to the account of the person only after receipt of full payment by the executive director.

Subd. 3. Optional employer partial payment. Payment shall be made by the person entitled to purchase prior service, except that the current or former employer of the person may, at its discretion, pay all or any portion of the payment amount which exceeds an amount equal to the employee contribution rates in effect for the retirement fund during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent per annum compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

If more than one person who is a current or former employee of an employing unit is eligible to purchase prior service, the governing body of the employing unit shall establish and implement a uniform policy on the payment by it of a portion of the purchase of prior service payment amount.

Subd. 4. Time limitation on authority to make payment. For the provisions of Laws 1982, Chapter 427, Section 3, the authority to make a lump sum payment or the agreement to make payments in installments over a period of not to exceed three years shall expire on July 1, 1987.

History: 1982 c 427 s 2

354.54 [Repealed, 1974 c 289 s 59]

354.55 OPTIONS TO CERTAIN MEMBERS.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. Any election made by a teacher pursuant to Minnesota Statutes 1953, Section 135.10, Subdivision 3, prior to July 1, 1957, shall continue in effect at such amount and subject to such conditions as the law then in effect permitted.

Subd. 3. Any person who ceased teaching service prior to July 1, 1957, who left his accumulated deductions in the fund for the purpose of receiving when eligible, a retirement annuity shall have his annuity computed in accordance with the law in effect at the date he ceased teaching service, except that if such person has ten or more years of allowable service credit, his retirement annuity shall be determined under the law in effect on June 30, 1969.

Subd. 4. [Repealed, 1974 c 289 s 59]

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Subd. 5. Each annuitant who as a member of the fund commenced drawing an annuity pursuant to Laws 1915, Chapter 199, as amended, shall be paid \$20 per month in addition to the amount such annuitant is otherwise entitled to receive under the provisions of Minnesota Statutes 1961, Sections 135.01 to 135.56.

Subd. 6. Each annuitant who as a member of the fund commenced drawing his annuity between August 1, 1931 and June 30, 1965, but not including his beneficiaries, shall be paid ten percent of his present monthly annuity if such annuitant retired pursuant to Minnesota Statutes 1965, Sections 354.33 and 354.34 and fifteen percent of his present monthly annuity if such annuitant retired pursuant to Minnesota Statutes 1953, Section 135.10 and Minnesota Statutes 1965, Sections 354.44 and 354.45, in addition to the amounts such annuitant is otherwise entitled to receive under the provisions of Minnesota Statutes 1965, Chapter 354.

Subd. 7. [Repealed, 1974 c 289 s 59]

Subd. 8. [Repealed, 1974 c 289 s 59]

Subd. 9. [Repealed, 1974 c 289 s 59]

Subd. 10. Any benefit to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the board of trustees, provided that such person shall first relinquish in writing all claim to that part of the full benefit which is the difference between the benefit which he would be otherwise entitled to receive and the benefit which he will receive. The reduced benefit 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 benefit releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced benefit and the full amount of the benefit which such person would otherwise have received. After July 1, 1971, any benefit reduced under the provisions of this subdivision may not again be restored.

Subd. 11. Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to sections 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided herein. The required reserves related to that portion of the annuity which had accrued at the time the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months. The rates of interest used for this purpose shall be five percent commencing July 1, 1971, until January 1, 1981, and three percent thereafter. 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 basis for purchasing the deferred annuity. If a person does not render teaching service in any one or more consecutive fiscal years and then resumes teaching service, the formula percentages used from date of resumption will be those applicable to new members. The mortality table and interest assumption contained therein used to compute the annuity shall be determined by the law in effect at the time of the member's retirement. A period of uninterrupted service for the purposes of this subdivision shall mean a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable herein be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6 and 7.

The requirements and provisions for retirement prior to age 65 contained in section 354.44, subdivision 6, clause (2) shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

Subd. 12. When any member retires under the law in effect prior to July 1, 1973 that portion of his annuity based on accumulations after June 30, 1957 under the provisions of Minnesota Statutes 1971, Section 354.44, Subdivision 2 and all accumulations under the provisions of Minnesota Statutes 1971, Section 354.33, Subdivision 1 shall be calculated using the same mortality table and interest assumption used to transfer the required reserves to the Minnesota post-retirement investment fund.

Subd. 13. Any person who ceased teaching service prior to July 1, 1968, who has ten years or more of allowable service and left his accumulated deductions in the fund for the purpose of receiving when eligible a retirement annuity, shall have his annuity computed in accordance with the law in effect on June 30, 1969, except that the portion of his annuity based on accumulations after June 30, 1957, under the provisions of Minnesota Statutes 1967, Section 354.44, Subdivision 2, and all accumulations under the provisions of Minnesota Statutes 1967, Section 354.33, Subdivision 1, shall be calculated using the same mortality table and interest assumption used to transfer the required reserves to the Minnesota post-retirement investment fund.

Subd. 14. All annuities payable from the Minnesota post-retirement investment fund which are 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 increases shall be based shall be the actuarially determined reserves for all Minnesota post-retirement investment fund annuities which were in effect on 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 all annuities payable from the Minnesota post-retirement investment fund which are in effect on June 30, 1973. Notwithstanding the provisions of section 356.18, increases in annuity payments pursuant to this subdivision will be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase shall not be made.

Subd. 15. Notwithstanding the maximum benefit provisions of section 354.46, subdivision 1, all benefits and annuities payable pursuant to sections 354.48; 354.46, subdivision 1 and Laws 1915, Chapter 199, as amended, which are in effect on June 30, 1973 shall be increased 25 percent. Such increase shall begin to accrue January 1, 1974. Notwithstanding the provisions of section 356.18, increases in benefit and annuity payments pursuant to this subdivision will be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase shall not be made.

Subd. 16. Any member who ceased to render teaching service during the 1972-1973 fiscal year whose application for retirement becomes effective after June 30, 1973, shall be eligible to receive the new retirement benefits provided by the law in effect on July 1, 1973.

Subd. 17. Teachers who retire after June 30, 1973 and who failed to make an election pursuant to Minnesota Statutes 1971, Section 354.145, Subdivision 1,

Clause (1) and Subdivision 2, Clause (1) shall have their annuity at retirement computed under section 354.44, subdivision 2 or subdivision 6, whichever is larger.

Subd. 18. (1) Teachers who retired after June 30, 1972 and before July 1, 1973 who failed to make an election pursuant to Minnesota Statutes 1971, Section 354.145, subdivision 1, clause (1) shall have their annuity recomputed under the law in effect on June 30, 1973 under the provisions of either Minnesota Statutes 1971, Section 354.33, subdivision 1 or subdivision 7, whichever is larger.

(2) Teachers who retired after June 30, 1972 and before July 1, 1973 and who failed to make an election pursuant to Minnesota Statutes 1971, Section 354.145, subdivision 2, clause (1) shall have their annuity recomputed under the law in effect on June 30, 1973 under the provisions of either section 354.44, subdivision 2 or subdivision 6, whichever is larger.

Subd. 19. Any member or retired former member who is covered by the formula or formula and variable programs in effect after June 30, 1973 and who made payments to the fund pursuant to Minnesota Statutes 1965, Section 354.511 shall upon request receive a refund of such payments.

History: *Ex1957 c 16 s 20; Ex1959 c 50 s 21,22; 1965 c 644 s 1; 1967 c 654 s 1; 1967 c 715 s 1; 1969 c 399 s 1; 1969 c 485 s 28; 1971 c 40 s 28-31; 1971 c 87 s 1; 1971 c 88 s 1; 1973 c 270 s 13; 1973 c 728 s 23-25,27; 1974 c 289 s 47-53; 1975 c 306 s 24-27; 1977 c 97 s 5-7; 1978 c 796 s 43; 1980 c 607 art 14 s 45 subd 2; 1980 c 614 s 142; 1981 c 224 s 124*

354.56 ANNUITANTS UNDER LAWS 1915, CHAPTER 199; ADDED BENEFITS.

Each annuitant who as a member of the fund commenced drawing an annuity pursuant to Laws 1915, Chapter 199, as amended, but not including the beneficiaries of the annuitant, shall be paid the sum of \$25 per month, which payments shall be guaranteed by the state, in addition to the amounts the annuitant is otherwise entitled to receive under the provisions of this chapter.

History: *1959 c 546 s 1; 1981 c 224 s 125*

354.57 OPERATIONS ACCOUNT REFLECTING INTEREST ON DEDUCTIONS OF MEMBERS ACCEPTING REFUNDMENT.

The executive director shall establish an operations account which shall reflect the interest on the accumulated deductions of all former members who have accepted refunds at the rate established by the board and applied generally to the accumulated deductions of members for the purpose of determining retirement annuities as credits in the account.

History: *Ex1959 c 50 s 24; 1981 c 224 s 126*

354.58 SUPPLEMENTAL RETIREMENT ANNUITY.

A supplemental retirement annuity shall be paid only to a member who retires pursuant to section 354.44, subdivision 2, and the options related thereto as established in sections 354.35 and 354.45. In establishing this supplemental retirement annuity the board shall ascertain the member's accumulated deduction including interest for the period of allowable service prior to July 1, 1957, and the member shall receive a retirement credit of 100 percent of this amount. The retirement credit so established shall be the basis for purchasing a supplemental retirement annuity using an annuity purchase rate based on an appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1. This supplemental retirement annuity shall be doubled.

History: *Ex1959 c 50 s 25; 1969 c 485 s 29; 1974 c 289 s 55; 1977 c 67 s 12; 1977 c 97 s 8*

354.581 [Repealed, 1974 c 289 s 59]

354.59 STATE UNIVERSITY TEACHERS, ADDITIONAL RETIREMENT ALLOWANCE.

In addition to other retirement benefits provided by law for teachers including those received under provisions of Minnesota Statutes 1957, Sections 135.01 to 135.18 and 135.31 to 135.55, as amended, each state university teacher, who on July 1, 1957, had been a member of the teachers retirement association for at least 15 years, upon retirement shall be paid one dollar a month for each year of allowable service, as defined by Minnesota Statutes 1957, Section 135.01, Subdivision 13, as amended by Extra Session Laws 1959, Chapter 50, Section 50, out of the teachers' retirement fund. The moneys necessary to make the payments as provided for herein are appropriated out of moneys in the teachers' retirement fund.

History: *Ex1961 c 16 s 1; 1975 c 321 s 2*

354.60 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

Any person who has been a member of the Minnesota state retirement system or the public employees retirement association including the public employees retirement association police and fire fund or the teachers retirement association or the Minnesota state 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 benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three 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 the person has not taken a refund from any one of these three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least ten years' membership service or ten years of allowable service in the respective 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.

History: *Ex1961 c 17 s 15; 1971 c 87 s 2; 1973 c 35 s 59; 1977 c 429 s 63; 1981 c 37 s 2; 1981 c 224 s 127*

NOTE: See also sections 352.72 and 353.71.

354.61 [Repealed, 2Sp1981 c 1 s 8]

354.62 PARTICIPATION IN MINNESOTA VARIABLE ANNUITY INVESTMENT FUND.

Subdivision 1. **Authorization.** There is hereby established within the basic and coordinated systems of the state teachers retirement association a division known as the variable annuity investment division. The assets of this division shall be invested in the Minnesota variable annuity fund.

Subd. 2. **Individual election.** Each member of the teachers retirement association may elect to participate in the variable annuity division by filing a written notice with the board of trustees on forms provided by the board.

(1) Employee variable annuity contributions to the variable annuity division shall be pursuant to the option available in section 354.44, subdivision 7, the employee variable annuity contributions shall be an amount equal to two percent of the salary of every coordinated member and four percent of the salary of every basic member.

(2) Employer variable annuity contributions shall be an amount equal to the employee variable annuity contributions provided in clause (1). The deficiency in equal employer variable annuity contributions which shall exist prior to July 1, 1975 shall be recovered from the additional employer contributions made prior to July 1, 1975 pursuant to section 354.42, subdivision 5.

(3) There shall be provided for members participating in the variable annuity division a separate account for each member which will show his variable account accumulations as defined in section 354.05, subdivision 23. The board shall establish such other accounts in the variable annuity division as it deems necessary for the operation of this provision.

(4) After June 30, 1974 there shall be no new participants in this program.

(5) Effective July 1, 1978, no future employee and employer contributions shall be credited to any accounts in the variable annuity division unless the member elects continued participation in the variable annuity division pursuant to section 354.621.

Subd. 3. Accounts. The variable annuity division in the teachers retirement association shall include an employee variable annuity contribution account, an employer variable annuity contribution account, a variable annuity reserve account, and a variable annuity turnover account.

(1) The employee variable annuity contributions account shall consist of all employee variable annuity contributions made pursuant to subdivision 2, clause (1) plus its share of earnings of the division from investments, including accrued interest and dividends, less withdrawals and transfers from the account, with the total adjusted annually by any realized and unrealized gains and losses.

(2) The employer variable annuity contribution account shall consist of all employer variable annuity contributions made pursuant to subdivision 2, clause (2) plus its share of earnings of the division from investments, including accrued interest and dividends, less withdrawals and transfers from the account, with the total adjusted annually by any realized and unrealized gains and losses.

(3) The variable annuity reserve account shall consist of all transfers made to the variable annuity reserve account, plus its share of earnings of the division from investments, including accrued interest and dividends, less payments from the account, with the total adjusted annually by any realized and unrealized gains and losses.

(4) The variable annuity turnover account shall consist of all transfers made to the variable annuity turnover account in accordance with subdivision 5, clauses (3) and (4) plus its share of earnings of the division from investments, including accrued interest and dividends, less the administrative costs of the variable annuity division and distributions made from the account in accordance with subdivision 4, clause (4), with the total adjusted annually by any realized and unrealized gains and losses.

Subd. 4. Gains, losses and earnings. (1) Turnover gains shall consist of those amounts transferred in accordance with subdivision 5, clauses (3) and (4).

(2) As of June 30 of each fiscal year, the board of trustees shall determine the amount of earnings, realized gains, and appreciation or losses to be distributed to the accounts provided in subdivision 3. The amount of these distributions shall be in the proportion of the average month-end balance of each account to the total value of all the accounts provided in subdivision 3.

(3) Earnings and realized and unrealized gains or losses shall be credited to the individual member accounts annually but only on amounts that have been on deposit for the full year based on a rate of return as defined in section 11A.19, subdivision 8.

(4) Annually on June 30 of each fiscal year a portion of the amount in the variable annuity turnover account shall be distributed to the variable annuity reserve account. The amount of this distribution shall be in the proportion of the value of the variable annuity reserve account to the total value of all the accounts provided in subdivision 3.

Subd. 5. **Variable retirement annuity.** (1) At retirement the amount of the member's variable account accumulation in the employee variable annuity contribution account, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year, and an equal amount from the employer variable annuity contribution account shall be transferred to the variable annuity reserve account, and the variable retirement annuity for the member shall be determined by the member's age, and sex, and the amount transferred for the member to the variable annuity reserve account at the date of retirement. The amount of the annuity shall be calculated on the basis of an appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1.

(2) Whenever the admitted value of the annuity reserve account of the variable annuity division, as of June 30 of any year, exceeds or is less than the then present value of all variable annuities in force, determined in accordance with the rate of interest and approved actuarial tables then in effect, by at least two percent of the present value, the amount of each variable annuity payment shall be proportionately increased or decreased for the following year.

(3) The death benefit payable in the event of a member's death prior to retirement shall be a lump sum refund of a member's variable account accumulation, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year, to the surviving spouse, or if there is no surviving spouse to the designated beneficiary. Except that if a member has made an election in accordance with section 354.46, then the surviving spouse shall receive a joint and survivor annuity as described in section 354.44 and computed as provided in clause (1). An amount equal to the lump sum refund made in this clause shall be transferred from the employer contribution account to the variable annuity turnover account.

(4) Except as provided in section 354.44, subdivision 7, any person who ceases to be a member by reason of termination of teaching service, shall be entitled to a lump sum refundment of the member's variable account accumulations, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year. Application for a refundment may be made no sooner than 30 days after termination of teaching service if the applicant has not again become a teacher. Repayment of a refundment upon resumption of teaching is not permitted under this section. An amount equal to the refundment to the member shall be transferred from the employer contribution account to the variable annuity turnover account.

(5) If a member is determined to be totally and permanently disabled as provided in sections 354.05, subdivision 14; and 354.48, the member shall be entitled to the annuity provided in this subdivision.

(6) Those members eligible for retirement as provided in section 354.44, subdivision 1 shall upon application for the annuity provided therein be entitled to the annuity provided in this subdivision. The annuity elected in accordance with sections 354.44, and 354.45 shall be the annuity applicable to this subdivision.

(7) Notwithstanding section 356.18, increases in annuity payments pursuant to this section shall be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase not be made.

(8) At retirement, a member may elect to have the amount of the member's variable annuity accumulation in the employee variable annuity contribution account and an equal amount from the employer variable annuity contribution account transferred to the Minnesota post-retirement investment fund as provided in section 354.63, subdivision 2, clause (2). This election may also be made by a surviving spouse who receives an annuity under clause (3) of this subdivision. The election shall be made on a form provided by the executive secretary.

History: 1969 c 485 s 30; 1971 c 40 s 32,33; 1973 c 35 s 60; 1973 c 270 s 14-16; 1973 c 728 s 26,28; 1974 c 289 s 56,57; 1975 c 306 s 28; 1978 c 781 s 5,6; 1980 c 607 art 14 s 45 subds 1,2; s 46; 1981 c 160 s 13,14; 1981 c 224 s 128

354.621 ELECTION OF CONTINUED PARTICIPATION IN THE VARIABLE ANNUITY DIVISION.

Any active member participating in the variable annuity division shall be entitled to elect to continue having employee and employer contributions credited to accounts in the variable annuity division notwithstanding section 354.62, subdivision 2, clause (5). The election to continue participation shall be made in writing on or before June 30, 1978.

History: 1978 c 781 s 7

354.63 PARTICIPATION IN MINNESOTA POST-RETIREMENT INVESTMENT FUND.

Subdivision 1. **Authorization.** The teachers retirement association is hereby authorized to participate in the Minnesota post-retirement investment fund.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) Effective July 1, 1973 for those members retiring pursuant to this chapter, the required reserves as determined in accordance with these sections shall be transferred to the Minnesota post-retirement investment fund as of the date of retirement. An appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1, will be used to determine the amount to be transferred.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18.

(3) Notwithstanding section 356.18, increases in annuity payments pursuant to this section will be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase shall not be made.

History: 1969 c 485 s 31; 1971 c 40 s 34; 1971 c 414 s 10; 1973 c 728 s 29; 1974 c 289 s 58; 1980 c 607 art 14 s 45 subd 2; s 46

354.64 EFFECT OF RECORDS.

The records of the teachers retirement association as determined to be correct by the board of trustees shall govern rights, benefits, and status of each member, former member, or annuitant of the association.

History: 1969 c 485 s 35

354.65 ADMINISTRATIVE EXPENSES.

Administrative expenses incurred by the teachers retirement association shall be prorated and allocated to the teachers retirement fund, and the organization's participation in the Minnesota variable annuity investment fund, the Minnesota post-retirement investment fund and the Minnesota supplemental investment retirement fund in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

History: 1969 c 485 s 34; 1980 c 607 art 14 s 45 subds 1,2

354.66 QUALIFIED PART TIME TEACHERS; PARTICIPATION IN FUND.

Subdivision 1. As used in this section, the term "teachers" shall have the meaning given it in section 125.03, subdivision 1, except that the term shall not include superintendents. The term shall also have the meaning given it in section 136.88, subdivision 1.

Subd. 1a. For purposes of this section, the term "board" means a school district board, the state board for community colleges and the state university board.

Subd. 1b. For purposes of this section, the term "district" means a school district, the community college system and the state university system.

Subd. 2. A teacher in the public elementary, secondary or area vocational-technical schools, in the community college system or the state university system of the state who has 20 years or more of allowable service in the fund or 20 years or more of full time teaching service in Minnesota public elementary, secondary or area vocational-technical schools, in the community college system or the state university system may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part time teaching position.

Subd. 3. For purposes of this section, the term "part time teaching position" shall mean a teaching position within the district in which the teacher is employed for at least 50 full days or a fractional equivalent thereof as prescribed in section 354.091, and for which the teacher is compensated in an amount not exceeding 60 percent of the compensation established by the board for a full time teacher with identical education and experience within the district.

Subd. 4. Notwithstanding any provision of this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit to the contrary, a teacher shall continue to make employee contributions to and accrue allowable service credit in the retirement fund during the period of part time employment pursuant to this section upon the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full time basis. The state shall make the full required employer contributions on behalf of the teacher to the retirement association for the part time teaching service in the manner described in section 354.43, subdivisions 1, 2 and 5. Full accrual of allowable service credit and employee contributions for part time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than 10 years.

Subd. 5. A teacher entitled to full accrual of allowable service credit and employee contributions for part time teaching service pursuant to this section shall not be entitled during the same period of time to be a member of, accrue allowable service credit in or make employee contributions to any other Minnesota public employee pension plan, except a volunteer firefighters' relief association governed by sections 69.771 to 69.776.

Subd. 6. **Insurance.** A board of an employing district entering into an agreement authorized by this section shall take all steps necessary to assure continuance of any insurance programs furnished or authorized a full time teacher on an identical basis and with identical sharing of costs for a part time teacher pursuant to this section, provided, however, that the requirements of this sentence may be modified by a collective bargaining agreement between a board and an exclusive representative pursuant to chapter 179. Notwithstanding the provisions of section 43.47, subdivision 16, teachers as defined in section 136.88 employed on a less than 75 percent time basis pursuant to this section shall be eligible for state paid insurance benefits as if the teachers were employed full time.

Subd. 7. Only teachers who are public employees as defined in section 179.63, subdivision 7, during the school year preceding the period of part time

employment pursuant to this section shall qualify for full accrual of service credit from and employee contributions to the retirement fund for part time teaching service pursuant to subdivision 4. Notwithstanding the provisions of section 179.63, subdivision 7, clauses (e) and (f), teachers who are employed on a part time basis for purposes of this section and who would therefore be disqualified from the bargaining unit by one or both of those provisions, shall continue to be in the bargaining unit during the period of part time employment pursuant to this section for purposes of compensation, fringe benefits and the grievance procedure.

Subd. 8. No teacher shall qualify for full accrual of service credit from and employee contributions to the retirement association or a teachers retirement fund association for part time teaching service pursuant to subdivision 4 or section 354A.094, subdivision 4, in more than one district at the same time. No teacher shall qualify for full accrual of service credit from and employee contributions to the retirement association or a teachers retirement fund association for part time teaching service during part time employment in a district pursuant to this section in any year when the teacher also takes a full time or part time teaching position in another Minnesota school district.

Subd. 9. **Applications; limits.** A school district shall not assign a teacher to a part time teaching position qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section without applying for and receiving the authorization of the commissioner of education. In cooperation with the board of trustees of the teachers retirement association and the boards of trustees of the appropriate teachers retirement fund associations and within the limits of the amount appropriated for the purpose of this section, the commissioner of education shall approve or disapprove the applications from school districts for authorization to assign teachers to part time teaching positions qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section; provided he shall not approve more than 55 total applications pursuant to this section and section 354A.094 for participation in the fund in any fiscal year. If more than 55 applications for any school year are received by the commissioner by March 15 of the preceding school year, the commissioner may decide which applications to approve according to the order of receipt, a method ensuring participation by teachers from the maximum possible number of districts, random allotment or any combination of these methods. Applications received by the commissioner after March 15 shall be considered for approval according to the order of receipt within the limits prescribed by this subdivision. The state board for community colleges and the state university board may within the limits appropriated to them for purposes of this section assign a teacher to a part time teaching position qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section without applying for and receiving the authorization of the commissioner of education.

Subd. 10. Nothing in this section shall be construed to limit the authority of a board to assign a teacher to a part time teaching position which does not qualify for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section.

Subd. 11. Neither subdivision 5 nor 8 shall be construed to prohibit a teacher who qualifies for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not qualify for full accrual of service credit from and employee contributions to the retirement fund for other teaching service rendered for any part of any year for

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which he qualifies for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section or section 354A.094.

History: 1977 c 447 art 9 s 4; 1978 c 764 s 118,119; 1979 c 334 art 8 s 16-19; 1980 c 454 s 6-13; 1980 c 618 s 5; 1981 c 224 s 129; 1981 c 358 art 8 s 13; 1982 c 548 art 4 s 15; 1982 c 578 art 3 s 5

354.69 INFORMATION SUPPLIED BY DISTRICT.

Each school district covered by the provisions of this chapter and the community college and state university systems shall furnish to the teachers retirement association all information and reports deemed necessary by the executive director to administer the provisions of section 354.66.

History: 1977 c 447 art 9 s 5; 1980 c 454 s 14; 1981 c 224 s 130