

CHAPTER 354A

TEACHERS RETIREMENT, CERTAIN CITIES

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354A.01 [Repealed, 1979 c 217 s 28]

354A.011 DEFINITIONS.

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

Subd. 2. **Academic year.** "Academic year" means the 12 month period beginning on September 1 of one calendar year and ending on August 31 of the following calendar year.

Subd. 3. **Accumulated contributions.** "Accumulated contributions" means the total of member or employee contributions made by salary deductions and assessments or payments made in lieu of salary deductions, if authorized, which are credited by the teachers retirement fund association to the member's individual account.

Subd. 4. **Allowable service.** "Allowable service" means any service rendered by a member during a period in which the member receives salary from which employee contribution salary deductions are made to and credited by the teachers retirement fund association or any service rendered by a person during any period where assessments or payments in lieu of salary deductions were made if authorized by any law or provision of the association's articles of incorporation or bylaws then in effect or pursuant to section 354A.091, 354.092, 354.093, or 354.094.

Subd. 5. **Annuity.** "Annuity" means the payments made by a teachers retirement fund association in the form of a retirement annuity or an optional annuity.

Subd. 6. **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 retirement funds or any firm which retains such an actuary on its staff.

Subd. 7. **Association.** "Association" or "teachers retirement fund association" means the applicable teachers retirement fund association established pursuant to this chapter.

Subd. 8. **Basic member.** "Basic member" means any member of the teachers retirement fund association who is covered by the basic program of the association due to the fact that the member is not 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 certain teachers covered by the association.

Subd. 9. **Benefit.** "Benefit" means the allowance paid or payable by the teachers retirement fund association to a surviving spouse, designated beneficiary, surviving child or estate or in periodic payments to a member or former member who is permanently and totally disabled.

Subd. 10. **Board.** "Board" means the board of trustees of a teachers retirement fund association.

Subd. 11. **Coordinated member.** "Coordinated member" means any member of the teachers retirement fund association who is covered by the coordinated program of the association due to the fact that the member is 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 certain teachers covered by the association; except in the case of a member of the Duluth teachers retirement fund association, in which it means additionally that the member either first became a member prior to July 1, 1981 and elected to be covered by the new law coordinated program of the Duluth teachers retirement fund association or first became a member on or subsequent to July 1, 1981.

Subd. 12. **Coordinated service.** "Coordinated service" means the service credited by the respective teachers retirement fund association for which the member was covered by the coordinated program of the association.

Subd. 13. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member of a teachers retirement fund association to be entitled to receive the balance of the accumulated member contributions to the credit of the member in the event of the member's death, or if no person has been designated by the member or if the designated beneficiary predeceases the member, the estate of the deceased member.

Subd. 14. **Disability.** "Disability" or "permanent and total disability" means the inability of a member to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long continued and indefinite duration which shall in no event be less than one year.

Subd. 15. **Member.** "Member" for purposes of entitlement to annuities or benefits pursuant to sections 354A.31 to 354A.41 and any other applicable provisions of this chapter means every teacher who joins and contributes to the respective teachers retirement fund association who has not retired or terminated teaching service. "Member" for purposes of determining who may participate in the organization and governance of the teachers retirement fund association, including the eligibility to elect members of and to serve as a member of the board of trustees, means every teacher who joins and contributes to the respective teachers retirement fund association and any other person designated as a member by the articles of incorporation or the bylaws of the respective teachers retirement fund association.

Subd. 16. **Normal retirement annuity.** "Normal retirement annuity" means for a coordinated member the retirement annuity computed pursuant to section 354A.31, subdivision 4, and paid or payable to a member upon meeting the age and service requirements specified in section 354A.31, subdivision 5, and for a basic member the retirement annuity computed pursuant to and paid or payable to a member upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

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Subd. 17. **Optional survivors annuity.** "Optional survivors annuity" means the payments made by the teachers retirement fund association to a survivor of a former member pursuant to an optional annuity form selected by the member at or before retirement.

Subd. 18. **Other than normal school operating funds.** "Other than normal school operating funds" means funds other than those generated as proceeds of property tax levies, state school maintenance cost aids distributed in accordance with statute, state aid to distressed school districts, proceeds from federal forest reserve lands, state transportation aids, receipts from tuition paid by persons or other school districts, any rental charges received, and any other moneys appropriated by the legislature.

Subd. 19. **Program.** "Program" means a separate component plan of a teachers retirement fund association providing a specific set of retirement annuities and disability and survivor benefits for a defined portion of the covered membership of the association.

Subd. 20. **Reduced retirement annuity.** "Reduced retirement annuity" means for a coordinated member the retirement annuity computed pursuant to section 354A.31, subdivision 4, reduced pursuant to section 354A.31, subdivision 6, and paid or payable to a member upon meeting the minimum age and service requirements specified in section 354A.31, subdivision 1, but prior to meeting the age and service requirements specified in section 354A.31, subdivision 5, and for a basic member the retirement annuity computed pursuant to and paid or payable to a member upon meeting the minimum age and service requirements specified in but prior to meeting the age and service requirements for a normal retirement annuity specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

Subd. 21. **Retirement.** "Retirement" means the time after the date of cessation of active teaching service by a teacher who is thereafter entitled to an accrued retirement annuity commencing as designated by the board of trustees and payable pursuant to an application for an annuity filed with the board under the applicable provisions of law, articles of incorporation and bylaws in effect on that date, which shall thereafter determine the rights of the person.

Subd. 22. **Retirement annuity.** "Retirement annuity" means the payments made by a teachers retirement fund association to a retired teacher.

Subd. 23. **Sabbatical leave.** "Sabbatical leave" means an authorized leave of absence period during which the member is compensated at a rate of not less than one-third of the salary which the member received during the plan year immediately preceding the granting of the leave.

Subd. 24. **Salary.** "Salary" or "covered salary" means the entire compensation paid to a member excluding any lump sum annual leave or sick leave payments and all forms of severance payments, even if a portion of the compensation is paid from other than public funds.

Subd. 25. **Service.** "Service" means all allowable service credited by the teachers retirement fund association, irrespective of whether the member at the time was covered by the basic program or by the coordinated program.

Subd. 26. **Spouse.** "Spouse" means the person who was legally married to and living with the member immediately prior to the member's death and who has not remarried subsequent to the member's death.

Subd. 27. **Teacher.** "Teacher" means any person who renders service in a public school district located in the corporate limits of one of the cities of the first class which was so classified on January 1, 1979 as any of the following:

(a) a full time employee in a position for which a valid license from the state board of education is required;

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(b) an employee of the teachers retirement fund association located in the city of the first class unless the employee has exercised the option pursuant to Laws 1955, Chapter 10, Section 1, to retain membership in the Minneapolis employees retirement fund established pursuant to chapter 422A;

(c) a part time employee in a position for which a valid license from the state board of education is required who also renders other non-teaching services for the school district unless the board of trustees of the teachers retirement fund association determines that the combined employment is on the whole so substantially dissimilar to teaching service that the service shall not be covered by the association.

The term shall not mean any person who renders service in the school district as any of the following:

(1) an independent contractor or the employee of an independent contractor;

(2) for the Duluth and St. Paul teachers retirement fund associations, and for the Minneapolis teachers retirement fund association, unless the person is designated by the board of education of special school district number 1 pursuant to section 356.451 as a provisional member of the teachers retirement fund association, a 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 teachers retirement fund association to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing 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 employment and training act, or the person agrees in writing to make the required employer contributions, including any employer additional contributions, in addition to the required employee or member contributions;

(3) an employee who is a full time teacher covered by another teachers retirement fund association established pursuant to this chapter;

(4) an employee 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; or

(5) an employee exempt from licensure pursuant to section 125.031.

Subd. 28. **Teaching service.** "Teaching service" means any service as a teacher performed by any person included within the definition of teacher.

History: 1979 c 217 s 1; 1980 c 609 art 5 s 22; 1981 c 224 s 131; 1981 c 269 s 1; 1981 c 298 s 11

354A.02 [Repealed, 1979 c 217 s 28]

354A.021 TEACHERS RETIREMENT FUND ASSOCIATIONS IN CITIES OF THE FIRST CLASS.

Subdivision 1. **Establishment.** There is established a teachers retirement fund association in each of the cities of the first class which were so classified on January 1, 1979. The associations shall be known respectively as the "Duluth Teachers Retirement Fund Association", the "Minneapolis Teachers Retirement Fund Association" and the "St. Paul Teachers Retirement Fund Association".

Each association shall be a continuation of the teachers retirement fund association with the same corporate name established pursuant to the authorization contained in Laws 1909, Chapter 343, Section 1.

Subd. 2. **Organization.** Each teachers retirement fund association shall be organized and governed pursuant to this chapter and chapter 317, except that no association shall be required to amend its articles of incorporation or bylaws to conform with section 317.08, subdivision 2, clause (3), and that each association shall be deemed to be a nonprofit corporation without coming within the application of section 317.02, subdivision 5. Any corporate action of any teachers retirement fund association taken prior to April 9, 1976 shall be deemed to be valid if it conformed with Minnesota Statutes 1976, Chapters 317 or 354A, or Revised Laws 1905, Chapter 58, as amended through April 9, 1976.

Subd. 3. **Fund.** Within each teachers retirement fund association there shall be created a special retirement fund, which shall include all of the assets of the teachers retirement fund association other than assets of a tax sheltered annuity program and fund authorized pursuant to subdivision 5 which were acquired for the specific purpose of being credited to that fund. The special retirement fund shall be credited with all employee and employer contributions, all interest and all other income authorized by law. Within the special retirement fund there may be established separate special retirement fund accounts for the purpose of providing convenience in the funding of and accounting for retirement annuities and any authorized ancillary benefits.

Subd. 4. **Fund disbursement restricted.** The assets of the special retirement fund shall be disbursed only for the purposes provided for in this chapter, the articles of incorporation or bylaws in effect as of March 31, 1975, and the articles of incorporation or bylaws adopted subsequent to March 31, 1975 in accordance with the provisions of section 354A.12. All appropriate expenses of and any authorized benefits provided by the teachers retirement fund association shall be paid from the special retirement fund. Amounts necessary to make payments from the special retirement fund of a teachers retirement fund association are hereby appropriated.

Subd. 5. **Tax sheltered annuity program and fund.** Any teachers retirement fund association may establish a tax sheltered annuity program and fund meeting the requirements of section 403(b) of the Internal Revenue Code of 1954, as amended, which shall include all assets which were acquired for the specific purpose of being credited to the program and fund and to which shall be credited all employee contributions designated for this purpose and all interest income attributable to the assets of the program and fund.

History: 1979 c 217 s 2

354A.03 [Repealed, 1979 c 217 s 28]

354A.04 [Repealed, 1979 c 217 s 28]

354A.05 MEMBERSHIP IN A TEACHERS RETIREMENT ASSOCIATION IN A CITY OF THE FIRST CLASS.

Only teachers contributing to the respective teachers retirement fund association, as provided in this chapter and the articles of incorporation and bylaws of the association, shall be entitled to the benefit of coverage by or entitlement to annuities or benefits from the association. All teachers in a city of the first class in which there exists a teachers retirement fund association shall be entitled to be members of that teachers retirement fund association and to participate in the benefits provided by the special retirement fund.

History: 1909 c 343 s 5; 1941 c 214 s 1; 1945 c 390 s 1; 1951 c 25 s 1; 1973 c 255 s 1; 1976 c 2 s 125; 1979 c 40 s 8; 1979 c 217 s 3 (1362)

354A.06 [Repealed, 1975 c 306 s 34]

354A.07 [Repealed, 1975 c 306 s 34]

354A.08 AUTHORIZED INVESTMENTS.

Any teachers retirement fund association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by gift, purchase or any other lawful means, as provided in this chapter or in the association's articles of incorporation.

History: 1909 c 343 s 7; 1979 c 217 s 4 (1364)

354A.09 PRO RATA DISTRIBUTION OF FUNDS.

In the event that the assets of the special retirement fund of a teachers retirement fund association are not sufficient to pay annuities and other retirement benefits in full as they come due in any particular year, the amount of special retirement fund assets available for payment shall be prorated among those annuitants and beneficiaries entitled to receive annuities and other retirement benefits.

History: 1909 c 343 s 8; 1979 c 217 s 5 (1365)

354A.091 TEACHERS ON EXTENDED LEAVE.

Subdivision 1. **Retirement contributions.** Notwithstanding any provision to the contrary of this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, except as provided in subdivision 1a an elementary, secondary or area vocational-technical school teacher in the public schools of a city of the first class who is granted an extended leave of absence pursuant to section 125.60 shall be entitled to receive allowable service credit in the applicable association for each year of leave. To obtain the service credit, the teacher on extended leave shall make an employee contribution to the applicable association each year during the period of the leave. The extended leave period for which a teacher shall be entitled to receive allowable service credit pursuant to this section shall not exceed the leave duration maximum set forth in section 125.60, subdivision 2. If the teacher on extended leave makes the employee contribution pursuant to this section during a leave of absence year, except as provided in subdivision 1a the state shall make an employer contribution on behalf of the teacher to the applicable association for that year. The employee and employer contributions shall be in amounts equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the leave. Payment of the employee contribution authorized pursuant to this section shall be made by the teacher on or before June 30 of the fiscal year for which service credit is to be obtained, and payment of the employer contribution shall be made by the state within 30 days of notification by the association of receipt of the required employee contribution. No allowable service with respect to a year of extended leave of absence shall be credited to a teacher until payment of the required employee and employer contributions has been received by the association.

Subd. 1a. **Contribution 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 to the applicable association, requests state payment of the employer

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contribution, 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. A teacher on extended leave pursuant to section 125.60 whose employee and employer contributions are made to the applicable teachers retirement fund association pursuant to subdivisions 1 and 1a shall retain membership in the association for each year during which the contributions are made, under the same terms and conditions as if the teacher had continued to teach in the district.

Subd. 3. Effect of nonpayment. A teacher on extended leave pursuant to section 125.60 who does not make employee contributions or whose employer contribution is not made to the applicable teachers retirement fund association in any year shall be deemed to have ceased to be an active member of the association and to have ceased to render teaching services beginning in that year for purposes of this chapter and the articles of incorporation and bylaws of the association, 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 teacher or his employing school district under section 125.60.

Subd. 4. If a teacher who has made employee contributions to the applicable teachers retirement fund association for the agreed maximum duration of an extended leave does not resume teaching service in the first school year after that maximum duration has elapsed, the teacher shall be deemed to have ceased to be an active member of the association and to have ceased to render teaching services beginning in that first school year after that maximum duration has elapsed for purposes of this chapter and the articles of incorporation and bylaws of the association.

Subd. 5. The provisions of this section shall not apply to a teacher who is discharged pursuant to section 125.17 while the teacher is on an extended leave of absence pursuant to section 125.60.

Subd. 6. A teacher who makes employee contributions to and receives allowable service credit in the applicable teacher's retirement fund association pursuant to this section may not make employee contributions or receive allowable service credit for the same period of time 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 this chapter or the bylaws of a retirement association, 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-

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tions or receives allowable service credit pursuant to section 354.094 or this section while on an extended leave of absence pursuant to section 125.60.

History: 1977 c 447 art 9 s 6; 1978 c 764 s 120,121; 1979 c 217 s 6; 1979 c 334 art 8 s 20-22; 1981 c 224 s 132,133; 1981 c 358 art 8 s 14-17

354A.092 SABBATICAL LEAVE.

Any teacher in the coordinated program of either the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association or any teacher in the new law coordinated program of the Duluth teachers retirement fund association who is granted a sabbatical leave shall be entitled to receive allowable service credit in the applicable association for periods of sabbatical leave. To obtain the service credit, the teacher on sabbatical leave shall make an employee contribution to the applicable association. No teacher shall be entitled to receive more than three years of allowable service credit pursuant to this section for a period or periods of sabbatical leave during any ten consecutive fiscal or calendar years, whichever is the applicable plan year for the teachers retirement fund association. If the teacher granted a sabbatical leave makes the employee contribution for a period of sabbatical leave pursuant to this section, the state shall make an employer contribution on behalf of the teacher to the applicable association for that period of sabbatical leave in the manner described in section 354.43, subdivisions 1, 2 and 5. The employee and employer contributions shall be in an amount equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the sabbatical leave period. Payment of the employee contribution authorized pursuant to this section shall be made by the teacher on or before June 30 of year next following the year in which the sabbatical leave terminated and shall be made without interest. If the employee contributions for the sabbatical leave period are less than an amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the sabbatical leave period, service credit shall be prorated. The prorated service credit shall be determined by the ratio between the amount of the actual payment which was made and the full contribution amount payable pursuant to this section.

History: 1979 c 217 s 7; 1981 c 224 s 134; 1981 c 269 s 2

354A.093 MILITARY SERVICE CREDIT.

Any teacher in the coordinated program of either the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association or any teacher in the new law coordinated program of the Duluth teachers retirement fund association who is granted a leave of absence to enter military service and who returns to active teaching service upon discharge from military service as provided in section 192.262, shall be entitled to receive allowable service credit in the applicable association for all or a portion of the period of military service but not for any voluntary extension of military service beyond the initial period of enlistment, induction or call to active duty which occurred at the instance of the teacher. If the teacher granted the military service leave of absence makes the employee contribution for a period of military service leave of absence pursuant to this section, the state shall make an employer contribution on behalf of the teacher to the applicable association for the period of the military service leave of absence in the manner described in section 354.43, subdivisions 1, 2 and 5. The employee and employer contributions shall be in an amount equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's

annual salary rate at the date of return from military service, multiplied by the number of years constituting the period of the military service leave of absence which the teacher seeks to purchase. Payment shall include interest on the amount payable pursuant to this section at the rate of six percent compounded annually from the year the military service was rendered to the date of payment. If the payments made by a teacher pursuant to this section are less than an amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's annual salary rate at the date of return from military service, multiplied by the number of years constituting the period of the military service leave of absence, service credit shall be prorated. The prorated service credit shall be determined by the ratio between the amount of the actual payment which was made and the full contribution amount payable pursuant to this section. In order to be entitled to receive service credit under this section, payment shall be made within five years from the date of discharge from military service.

History: 1979 c 217 s 8; 1981 c 269 s 3

354A.094 QUALIFIED PART TIME TEACHERS; PARTICIPATION IN FUND.

Subdivision 1. For purposes of this section, the term "teachers" shall have the meaning given in section 125.03, subdivision 1, except that the term shall not include superintendents.

Subd. 2. 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 of 50 full days calculated using the appropriate minimum number of hours which would result in a full day of service credit by the appropriate association and for which the teacher is compensated in an amount not to exceed 60 percent of the compensation rate established by the board for a full time teacher with identical education and experience within the district.

Subd. 3. A teacher in the public schools of a city of the first class who has 20 years or more allowable service in the applicable retirement fund association or 20 years or more of full time teaching service in Minnesota public elementary, secondary and area vocational-technical schools 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. 4. Notwithstanding any provision to the contrary in this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher shall continue to make employee contributions to and to accrue allowable service credit in the applicable association 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 applicable association for the part time teaching service in the manner described in section 354.43, subdivisions 1, 2 and 5. Full membership, accrual of allowable service credit and employee contributions for part time teaching service by a teacher pursuant to this section and section 354.66 shall not continue for a period longer than ten years.

Subd. 5. A teacher entitled to full membership, 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 pension plan, except a volunteer firefighters relief association governed by sections 69.771 to 69.776.

Subd. 6. 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.

Subd. 7. Only teachers who are in the bargaining unit as defined in section 179.63, subdivision 17, during the year preceding the period of part time employment pursuant to this section shall qualify for full membership in, accrual of service credit from, and employee contributions to a teachers retirement fund association 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 membership in, accrual of service credit from and employee contributions to the teachers retirement association or a teachers retirement fund association for part time teaching service pursuant to subdivision 4 or section 354.66, subdivision 4, in more than one district at the same time. No teacher shall qualify for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association during part time employment in a district pursuant to this section in any year if the teacher also takes a full time or part time teaching position in another Minnesota school district.

Subd. 9. **Application approval; limits.** A district shall not assign a teacher to a part time teaching position qualifying for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association pursuant to this section without applying for and receiving the authorization of the commissioner of education. In cooperation with the boards of trustees of the appropriate retirement fund associations and within the limits of the amounts appropriated for the purpose of this section, the commissioner of education shall approve or disapprove the applications from districts for authorization to assign teachers to part time teaching positions qualifying for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association pursuant to this section; provided he shall not approve more than 55 total applications pursuant to this section and section 354.66 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.

Subd. 10. Nothing in this section shall be construed to limit the authority of a school board to assign a teacher to a part time teaching position which does not qualify for employee contributions to a teachers retirement fund association pursuant to this section.

Subd. 11. Neither subdivision 5 nor subdivision 8 shall be construed to prohibit a teacher who qualifies for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association 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 this chapter or

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the bylaws of a retirement association, a teacher may not pay retirement contributions or receive allowable service credit in the funds for other teaching service rendered for any part of any year for which the teacher qualifies for full membership in, accrual of service credit from and employee contributions to the teachers retirement association or a teachers retirement fund association pursuant to section 354.66 or this section.

Subd. 12. Information supplied by district. Each school district covered by the provisions of this chapter shall furnish to the appropriate teachers retirement fund association whatever information and reports deemed necessary by the board of trustees of the applicable teachers retirement fund association to administer the provisions of this section.

History: 1979 c 217 s 9; 1980 c 509 s 136-139; 1981 c 224 s 135-138; 1981 c 358 art 8 s 18; 1982 c 578 art 3 s 6

354A.10 [Repealed, 1979 c 217 s 28]

354A.11 CERTAIN MONEYS AND CREDITS OF TEACHERS EXEMPT.

All moneys deposited by a teacher or member or deposited by any other person or corporation, municipal or private, to the credit of a teacher or member of a teachers retirement fund association organized pursuant to this chapter, and all moneys, rights, and interests or annuities due or to become due to a teacher, member, or annuitant, or their beneficiaries, from any association shall not be assignable, shall be exempt from garnishment, attachment, and execution or sale on any final process issued from any court and every other legal process whatsoever including, but not limited to, divorce, legal separation, and child support, and shall not be subject to the estate tax provisions of this state.

History: 1939 c 72 s 1; 1967 c 605 s 1; 1971 c 789 s 7; 1979 c 217 s 10; 1979 c 303 art 3 s 31; 1982 c 578 art 1 s 9 (1366-2)

354A.12 CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.

Subdivision 1. Employee contributions. The contribution required to be paid by each member of a teachers retirement fund association shall not be less than the percentage of total salary specified below for the applicable association and program:

| Association and Program | Percentage of Total Salary |
|---|----------------------------|
| Duluth teachers retirement association | |
| old law and new law coordinated programs | 4.5 percent |
| Minneapolis teachers retirement association | |
| basic program | 8.5 percent |
| coordinated program | 4.5 percent |
| St. Paul teachers retirement association | |
| basic program | 8 percent |
| coordinated program | 4.5 percent |

Subd. 2. Employer contributions. Notwithstanding any law to the contrary, levies for teachers retirement fund associations in cities of the first class, including levies for any employer social security taxes for teachers covered by the Duluth teachers retirement fund association or the Minneapolis teachers retirement fund

association or the St. Paul teachers retirement fund association, are disallowed and the state shall assume the total employer obligation.

The state shall make the following employer contributions to teachers retirement fund associations:

(a) For any coordinated member of a teachers retirement fund association in a city of the first class, the state shall pay the employer social security taxes in accordance with section 355.46, subdivision 3, clause (b);

(b) For any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the state shall make a contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

| | |
|--|--------------|
| Duluth teachers retirement fund association | 5.79 percent |
| Minneapolis teachers retirement fund association | 4.50 percent |
| St. Paul teachers retirement fund association | 4.50 percent |

(c) For any basic member of one of the following teachers retirement fund associations in a city of the first class, the state shall make a contribution to the respective retirement fund in an amount equal to the designated percentage of the salary of the basic member as provided below:

| | |
|--|---------------|
| Minneapolis teachers retirement fund association | 13.35 percent |
| St. Paul teachers retirement fund association | 12.63 percent |

The state employer contributions shall be remitted directly to each teachers retirement fund association each month in accordance with the procedures described in section 354.43, subdivisions 1 and 5.

Once each month the executive secretary of each teachers retirement fund association shall determine the amount of money necessary and presently needed to meet the state obligation as provided in this subdivision by applying the percentage of payroll figure to the estimated payroll amounts for the current month and shall certify the amount to the commissioner of finance. The moneys required to meet the amounts certified by each executive secretary of a teachers retirement fund association shall be remitted directly to the applicable teachers retirement fund association from the general fund each month. If subsequent actual experience deviates from the anticipated experience upon which the amount certified was determined, the allocation to the first class city teachers retirement fund association involved next following the discovery of the deviation shall be adjusted. If the state makes an excess employer contribution to a teachers retirement fund association as the result of a false or wrongful certification, the state shall be entitled to recover the excess employer contribution by any appropriate means, including recovery from future state allocations, state aid or other funds payable to the school district in which the association is located. If an employee of that school district is responsible for the false or wrongful certification, any excess employer contribution recovered by the state shall be the obligation of the school district.

Subd. 3. Certification of salaries paid from other than normal school operating funds. The executive secretary of each teachers retirement fund association in a city of the first class shall certify to the commissioner of finance the total amount of salaries paid from normal school operating funds and the total amount

of salaries paid from other than normal school operating funds. The certification shall include for each individual who receives a salary paid in whole or in part from other than normal school operating funds the name of the person, the salary or portion of the salary paid from other than normal school operating funds and the amount of employer contributions on the salary paid from other than normal school operating funds determined by applying the percentage of payroll figure as reported by the state teachers retirement association to the salary or portion of the salary paid from other than normal school operating funds.

Subd. 4. Limitation on certain articles of incorporation or bylaw amendments. No amendment to the bylaws or articles of incorporation of a teachers retirement fund association in a city of the first class affecting benefits, contributions or actuarial assumptions shall be made without approval by the legislature. Approval shall be deemed granted and the amendment shall become effective only upon enactment of special or general legislation detailing the substance of the amendment and upon submission of the text of the proposed amendment to the articles of incorporation or bylaws by the teachers retirement fund association involved to the legislative commission on pensions and retirement prior to the effective date of the amendment. Notwithstanding any provision of the articles of incorporation or bylaws to the contrary, amendments may be adopted at an annual meeting or at a special meeting called for that purpose, without further local approval.

History: 1975 c 306 s 30; 1976 c 238 s 1; 1976 c 239 s 107; 1978 c 781 s 8; 1979 c 293 s 3; 1980 c 614 s 143; 1981 c 269 s 4; 1982 c 578 art 3 s 7

354A.13 [Repealed, 1979 c 217 s 28]

354A.21 MANDATORY RETIREMENT; PROPORTIONATE ANNUITY.

Notwithstanding the provisions of sections 197.46 to 197.48 or 354A.05, a teacher subject to the provisions of this chapter shall terminate employment at the end of the academic year in which the teacher reaches the age of 70. A teacher who terminates employment at any time during the academic year at the end of which the teacher is required to terminate employment pursuant to this section shall be entitled upon application to a proportionate retirement annuity pursuant to section 356.32. Nothing contained in this section shall preclude a district from employing a retired teacher as a substitute teacher but upon having earned 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 teacher, any person over the age of 70 years shall terminate employment for the remainder of that academic year. No person employed as a substitute teacher after reaching the mandatory retirement age shall resume membership in the teachers retirement fund association by virtue of the employment as a substitute teacher.

History: 1975 c 306 s 32; 1976 c 329 s 31; 1979 c 217 s 12; 1980 c 342 s 14; 1Sp1981 c 4 art 2 s 35

354A.22 [Repealed, 1980 c 509 s 140]

NOTE: This section was also repealed by Laws 1979, Chapter 217, Section 28.

354A.23 MINNEAPOLIS AND ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATIONS; BASIC PROGRAMS.

Subdivision 1. Minneapolis teachers retirement fund association basic program. There is established within the Minneapolis teachers retirement fund association a basic program which shall be a continuation of the retirement

program in existence prior to July 1, 1978 to provide retirement coverage for teachers who are not 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 certain teachers covered by the teachers retirement fund association. The provisions governing the basic program shall be the applicable portions of this chapter, the articles of incorporation and bylaws in effect as of March 31, 1975, the amendments to the articles of incorporation and bylaws adopted subsequent to legislative approval contained in Laws 1976, Chapter 238, Section 13 and Laws 1977, Chapter 429, Section 59, and any applicable amendments to the articles of incorporation or bylaws adopted subsequent to July 1, 1979 in accordance with the provisions of section 354A.12, subdivision 4.

Subd. 2. St. Paul teachers retirement fund association basic program. There is established within the St. Paul teachers retirement fund association a basic program which shall be a continuation of the retirement program in existence prior to July 1, 1978 to provide retirement coverage for teachers who are not 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 certain teachers covered by the teachers retirement fund association. The provisions governing the basic program shall be the applicable portions of this chapter, the articles of incorporation and bylaws in effect as of March 31, 1976, the amendments to the articles of incorporation and bylaws adopted subsequent to legislative approval contained in Laws 1976, Chapter 238, Section 14, and Laws 1977, Chapter 429, Section 60, the provisions of Laws 1977, Chapter 429, Section 61, and any applicable amendments to the articles of incorporation or bylaws adopted subsequent to July 1, 1979 in accordance with the provisions of section 354A.12, subdivision 4.

History: 1979 c 217 s 13

354A.24 DULUTH TEACHERS RETIREMENT FUND ASSOCIATION CO-ORDINATED PROGRAMS.

There is established within the Duluth teachers retirement fund association for teachers who are covered by an 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 teachers covered by the teachers retirement fund association, two coordinated programs:

(1) an old law coordinated program to provide retirement coverage for teachers who were first employed prior to July 1, 1981 and do not elect to be covered by the new law coordinated program, which program shall be a continuation of the retirement program in existence prior to July 1, 1978; and

(2) a new law coordinated program to provide retirement coverage for teachers who were first employed on or subsequent to July 1, 1981 or for teachers who were first employed prior to July 1, 1981 and elect to be covered by the new law coordinated program. The provisions governing the old law coordinated program shall be the portions of this chapter which do not apply specifically to a coordinated program or a coordinated or former coordinated member, the articles of incorporation and bylaws in effect as of March 31, 1975, the provisions of Laws 1976, Chapter 238, Section 15, and any applicable amendments to the articles of incorporation or bylaws of the teachers retirement fund association adopted subsequent to July 1, 1979 in accordance with the provisions of section 354A.12, subdivision 4. The provisions governing the new law coordinated program shall be sections 354A.31 to 354A.41 and any other applicable portions of this chapter, the provisions of Laws 1981, Chapter 269, Sections 9 and 10, and any applicable amendments to the articles of incorporation or bylaws of the teachers retirement

fund association adopted subsequent to July 1, 1981 in accordance with the provisions of section 354A.12, subdivision 4.

History: 1979 c 217 s 14; 1981 c 269 s 5

354A.30 MINNEAPOLIS AND ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATIONS; COORDINATED PROGRAM.

There is established a coordinated program within the Minneapolis teachers retirement fund association and a coordinated program within the St. Paul teachers retirement fund association to provide retirement coverage for teachers who are covered by an 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 certain teachers covered by the teachers retirement fund association. The provisions governing the coordinated program shall be sections 354A.31 to 354A.41 and any other applicable provisions of this chapter.

History: 1979 c 217 s 15

354A.31 COORDINATED PROGRAM RETIREMENT BENEFITS.

Subdivision 1. Age and service requirements. Any coordinated member or former coordinated member who has ceased to render teaching service for the school district in which the teachers retirement fund association exists and who has either attained the age of at least 55 years with not less than ten years of allowable service credit or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.

Subd. 2. Time and manner of payments. A coordinated member or former coordinated member may make application to the board of the teachers retirement fund association for a retirement annuity any time after the member has satisfied the age and service requirements specified in subdivision 1, but no application for retirement may be accepted by the board more than 60 days prior to the termination of teaching service. The retirement annuity shall begin to accrue after the occurrence of a retirement precondition event, which for purposes of this subdivision is the later of the termination of teaching service for the school district in which the teachers retirement fund association exists, the filing of an application for a retirement annuity with the board, or receipt of the final salary payment. Accrual shall commence on the sixteenth day of the month if the retirement precondition event occurs on or before the fifteenth day of that month or on the first day of the month next following if the retirement precondition event occurs on or after the sixteenth day of the month.

Subd. 3. Resumption of teaching after commencement of a retirement annuity. Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 and who has resumed teaching service for the school district in which the teachers retirement fund association exists shall be entitled to continue to receive retirement annuity payments except that for any person under the age of 72 years during any quarter in which the person's compensation for 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 retirement annuity payment payable for the quarter immediately following the quarter in which the excess amount was earned. Any person to whom this subdivision applies who has reached the age of at least 72 years shall be entitled to continue to receive retirement annuity payments in full regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement fund association exists.

Subd. 4. Computation of the normal coordinated retirement annuity. The normal coordinated retirement annuity shall be an amount equal to a retiring coordinated member's average salary multiplied by the retirement annuity formula percentage. Average salary for purposes of this section shall mean an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but which shall not in any event include any more than the equivalent of 60 monthly salary payments. The retirement annuity formula percentage for purposes of this section shall mean one percent per year for each year of coordinated service for the first ten years and 1-1/2 percent for each year of coordinated service thereafter.

Subd. 5. Unreduced normal retirement annuity. Upon retirement at age 65 with at least ten years of service credit or at age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a normal retirement annuity calculated pursuant to subdivision 4.

Subd. 6. Reduced retirement annuity. Upon retirement at an age prior to age 65 with ten years of service credit or prior to age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity reduced by one-half of one percent for each month that the coordinated member is under the age of 65 if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit but is over the age of 59, and reduced by one-fourth of one percent for each month that the coordinated member is under the age of 60.

History: 1979 c 217 s 16; 1981 c 224 s 139

354A.32 OPTIONAL RETIREMENT ANNUITIES.

The boards of the Minneapolis and the St. Paul teachers retirement fund associations shall each establish for the coordinated program and the board of the Duluth teachers retirement fund association shall establish for the new law coordinated program an optional retirement annuity which shall take the form of a joint and survivor annuity. Each board may also in its discretion establish an optional annuity which shall take the form of an annuity payable for a period certain and for life thereafter. Each board shall also establish an optional retirement annuity which shall take the form of a guarantee that in the event of death the balance of the accumulated deductions shall be paid to a designated beneficiary. All optional forms shall be the actuarial equivalent of the normal forms provided in section 354A.31. In establishing these optional forms, the board shall obtain the written recommendation of an approved actuary and the recommendation shall be a part of the permanent records of the board.

History: 1979 c 217 s 17; 1981 c 269 s 6

354A.33 SOCIAL SECURITY LEVELING ADJUSTMENT OPTION.

Any coordinated member who retires prior to the time the member becomes eligible for social security old age retirement benefits shall be entitled to elect to receive a social security leveling adjustment optional annuity from the teachers

retirement fund association. The social security leveling adjustment optional annuity shall be established by the board of the teachers retirement fund association. It shall take the form of an annuity payable for the period prior to the member's becoming eligible for social security old age retirement benefits in an amount greater than the amount of the member's annuity calculated pursuant to section 354A.31 on the basis of the age of the member at retirement but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amounts payable immediately subsequent to becoming eligible for social security old age retirement benefits in an amount less than the amount of the member's annuity calculated pursuant to section 354A.31 on the basis of the age of the member at retirement. The optional form shall be the actuarial equivalent to the normal forms provided in section 354A.31. In establishing the optional form, the board shall obtain the written recommendation of an approved actuary and the recommendation shall be a part of the permanent records of the board.

History: 1979 c 217 s 18

354A.34 DISPOSITION OF UNPAID PERIOD CERTAIN FOR LIFE OR GUARANTEED REFUND OPTIONAL ANNUITIES.

If a retiree from a coordinated program who has elected a period certain and for life thereafter or a guaranteed refund optional annuity form dies without having a designated beneficiary who has survived the retiree, any remaining unpaid guaranteed annuity payments shall be computed at the rate of interest specified in section 356.215, subdivision 4, clause (4) and paid in one lump sum to the estate of the retiree. If a retiree from a coordinated program who has elected a period certain and for life or a guaranteed refund optional annuity form dies with a designated beneficiary who has survived the retiree but the designated beneficiary dies without there existing another designated beneficiary, any remaining unpaid guaranteed annuity payments shall be computed at the rate of interest specified in section 356.215, subdivision 4, clause (4) and paid in one lump sum to the estate of the designated beneficiary.

History: 1979 c 217 s 19

354A.35 SURVIVOR BENEFITS.

Subdivision 1. **Death before retirement; refund.** If a coordinated member or former coordinated member dies prior to retirement or prior to the receipt of any retirement annuity or other benefit payment which is or may be payable and a surviving spouse optional annuity is not payable pursuant to subdivision 2, a refund shall be paid to the person's surviving spouse, or if there is none, to the person's designated beneficiary, or if there is none, to the legal representative of the person's estate. The refund shall be in an amount equal to the person's accumulated contributions plus interest at the rate of 3-1/2 percent per annum compounded annually.

Subd. 2. **Death while eligible to retire; surviving spouse optional annuity.** Any coordinated member who has attained the age of at least 55 years and has credit for at least 20 years of service or has credit for at least 30 years of service regardless of age shall be entitled to elect a joint and survivor annuity covering the spouse of the member. If a coordinated member has elected a joint and survivor annuity pursuant to this subdivision and the member dies prior to retirement, the member's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31.

Subd. 2a. **Modification in survivor coverage in certain instances.** Any person who elected joint and survivor annuity coverage pursuant to 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 secretary that the benefits provided in this section, 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.

Subd. 3. Death after retirement. If a retiree from a coordinated program dies after retirement, the retiree or the retiree's designated beneficiary shall be entitled to the annuity payment due for the full month during which death occurs unless an optional annuity was elected by the retiree pursuant to subdivision 2 or section 354A.32. If a joint and survivor optional annuity covering the spouse of the retiree was elected by the retiree from a coordinated program, the retiree's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31. If an optional annuity other than a joint and survivor optional annuity covering the spouse of the retiree was elected by the retiree from a coordinated program, the optional annuity shall be paid according to its terms.

Subd. 4. Payment of minimal refund and benefit amounts. If a coordinated member or former coordinated member dies without having designated a beneficiary or if the designated beneficiary dies without there existing any other designated beneficiary and prior to making application for the refund credited to the deceased coordinated member or coordinated former member, and if the amount of the refund does not exceed \$500, the board in its discretion may, in absence of probate proceedings, make payment 90 days after the date of death of the coordinated member or former coordinated member to the surviving spouse of the deceased coordinated member or former coordinated member, or if none, to the next of kin as determined under the laws of descent of the state. A payment under this subdivision shall be a bar to recovery by any other person or persons. Any retirement annuity in any amount which has accrued at the time of the death of a coordinated retiree may be paid by the board in its discretion using the procedure set forth in this subdivision.

Subd. 5. Payment to designated beneficiary. Any coordinated member and the spouse of the coordinated member may make a joint specification in writing on a form prescribed by the executive secretary that the benefits provided in subdivisions 1 or 2, 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: 1979 c 217 s 20; 1981 c 156 s 5; 1981 c 224 s 140,141; 1982 c 578 art 3 s 8

354A.36 PERMANENT DISABILITY BENEFITS.

Subdivision 1. Minimum age, service and salary requirements. Any coordinated member who has either at least ten years of allowable service credit or attained the age of at least 50 years with at least five years of allowable service credit, has an average salary of at least \$75 per month and has become totally and permanently disabled shall be entitled to a disability benefit. If the disabled coordinated member's allowable service credit has not been continuous, at least five years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

Subd. 2. Time and manner of payments. The disability benefit shall begin to accrue from the later of either 90 days following the commencement of the permanent disability or the first day of the month following the date on which the written application for the disability benefit has been filed with the board, but

payment shall not begin to accrue until any salary which is received by the disabled coordinated member for either annual or sick leave during the period of disability ceases.

Subd. 3. Computation of disability benefit. The coordinated permanent disability benefit shall be an amount equal to the normal coordinated retirement annuity computed pursuant to section 354A.31, subdivision 4, based on allowable service credited to the date of disability but without any reduction for the commencement of the benefit prior to the attainment of age 65 or age 62 with at least 30 years of service credit as specified in section 354A.31, subdivision 6. The disabled coordinated member shall not be entitled to elect an optional annuity form pursuant to section 354A.32 prior to attaining age 65 as provided in subdivision 10.

Subd. 3a. Optional annuity election. A disabled coordinated member may elect to receive the normal disability benefit or an optional annuity as provided in section 354A.32. 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 of disability. The board of the teachers retirement fund association shall make the final determination of the existence of a permanent and total disability. The board shall have the coordinated member examined by at least two licensed physicians who shall be selected by the board. After making any required examinations, each physician shall make a written report to the board concerning the coordinated member, which shall include a statement of the physician's medical opinion as to whether or not the member is permanently and totally disabled within the meaning of section 354A.011, subdivision 14. The board shall also obtain a written statement from the school district as to whether or not the coordinated member was terminated or separated from active employment due to a disability which is deemed by the district to reasonably prevent further service by the member to the district and which caused the coordinated member not to be entitled to further compensation from the district for services rendered by the member. If, after consideration of the reports of the physicians and any evidence presented by the member or any other interested parties, the board determines that the coordinated member is totally and permanently disabled within the meaning of section 354A.011, subdivision 14, it shall grant the coordinated member a disability benefit. The fact that a member has been placed on a leave of absence without compensation as a result of the disability shall not operate to bar a coordinated member from receiving a disability benefit under this section.

Subd. 5. Offset against benefits paid under other laws. The coordinated disability benefit shall be reduced by any amounts received or receivable by a coordinated member from the school district under applicable workers' compensation laws.

Subd. 6. Requirement for regular physical examinations. At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board and at least once in every three year period thereafter, the board shall require the disability benefit recipient to undergo a medical examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. The medical examination shall be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The medical examination shall be made by a physician or physicians engaged by the board. The physician or physicians conducting the medical examination shall make a

written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the physician's medical opinion as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the physician's written medical examination report that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation unless the disability benefit recipient is partially employed pursuant to subdivision 7, then further disability benefit payments from the fund shall be discontinued. The discontinuation of disability benefits shall occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the medical examination and report of the physician or physicians engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.

Subd. 7. Partial reemployment of disability benefit recipient. If a disability benefit recipient resumes gainful employment but the compensation from the employment is less than the recipient's salary at the date of disability or the salary paid currently to positions similar to the position which the recipient held at the date of disability, the recipient shall be entitled to a disability benefit from the board in an amount which when added to the compensation for the partial reemployment does not exceed the lower of the recipient's salary at the date of disability or the salary paid currently to positions similar to the position which the recipient held at the date of disability, and does not in any event exceed the disability benefit originally computed pursuant to subdivision 3.

Subd. 8. Examination refusal. If a disability benefit recipient refuses to submit to a medical examination as provided in subdivision 6, then further disability benefit payments from the fund shall be discontinued and all rights of the recipient to a disability benefit shall be revoked by the board.

Subd. 9. Return to teaching service. Any disability benefit recipient who resumes active teaching service in the district in which the teachers retirement fund association is located shall also resume making employee contributions to the fund pursuant to section 354A.12, subdivision 1.

Subd. 10. Retirement status upon attaining age 65. No person shall be entitled to receive both a disability benefit under this section and a retirement annuity under section 354A.31. If a disability benefit recipient remains totally and permanently disabled upon attaining age 65, the disability benefit shall terminate and the former disability benefit recipient shall be deemed to be on retirement status. If the former disability benefit recipient had elected an optional annuity pursuant to subdivision 3a, the recipient shall receive an annuity in accordance with the terms of the optional annuity previously elected, or if the recipient had not elected an optional annuity pursuant to subdivision 3a, the recipient shall be entitled either to receive a retirement annuity in an amount equal to the greater of either a single life retirement annuity calculated pursuant to section 354A.31 or the disability benefit paid to the recipient immediately prior to the recipient's attaining age 65 or elect either a single life retirement annuity as provided in this section or an actuarial equivalent optional form retirement annuity as provided in section 354A.32. 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: 1979 c 217 s 21; 1981 c 68 s 27,28

354A.37 REFUNDS.

Subdivision 1. **Eligibility for refund.** Any coordinated member who ceases to render teaching service for the school district in which the teachers retirement fund association is located shall be entitled to a refund in lieu of any other annuity or benefit from the teachers retirement fund association other than an annuity from a tax shelter annuity program and fund as authorized pursuant to section 354A.021, subdivision 5. The amount of the refund shall be calculated pursuant to subdivision 3. The application for the refund shall not be made prior to 30 days after the cessation of teaching services if the coordinated member has not resumed active teaching services for the district. Payment of the refund shall be made within 90 days after receipt of the refund application by the board.

Subd. 2. **Eligibility for deferred retirement annuity.** Any coordinated member who ceases to render teaching services for the school district in which the teachers retirement fund association is located, with sufficient allowable service credit to meet the minimum service requirements specified in section 354A.31, subdivision 1, shall be entitled to a deferred retirement annuity in lieu of a refund pursuant to subdivision 1. The deferred retirement annuity shall be computed pursuant to section 354A.31 and it shall commence upon application after the person on deferred status attains at least the minimum age specified in section 354A.31, subdivision 1.

Subd. 3. **Computation of refund amount.** A former coordinated member who qualifies for a refund pursuant to subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated contributions without interest.

Subd. 4. **Certain refunds at age 65.** Any coordinated member who has attained the age of at least 65 with less than ten years of allowable service credit and has terminated active teaching service shall be entitled to a refund in lieu of a proportionate annuity pursuant to section 356.32. The refund shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of 3-1/2 percent compounded annually.

Subd. 5. **Unclaimed minimal refund amounts; disposition.** If a coordinated member ceases to render teaching services for the school district in which the teachers retirement fund association is located but does not apply for a refund pursuant to subdivision 1 within five years after the end of the plan year next following the cessation of teaching services and if the amount of the refund that the former coordinated member would have been entitled to pursuant to subdivision 3 is \$500 or less, then the amount of the refund and any accumulated interest shall be credited to and become a part of the retirement fund. If the former coordinated member subsequently renders teaching services for the school district in which the teachers retirement fund association is located and the amount of the refund that the former coordinated member would have previously been entitled to pursuant to subdivision 3 is at least \$5, then the amount of the refund and any accumulated interest shall be restored to the member's individual account. If the amount of the refund that the former coordinated member would have previously been entitled to pursuant to subdivision 3 is at least \$5 and the former coordinated member applies for a refund pursuant to subdivision 1 or for an annuity pursuant to sections 354A.31 and 354A.32 or section 356.30, the amount of the refund and any accumulated interest shall be restored to the member's individual account.

History: 1979 c 217 s 22

354A.38 EFFECT OF REFUND; REPAYMENT OF REFUND.

Subdivision 1. **Effect of refund; termination of service credit.** If a coordinated member or former coordinated member applies for and accepts a refund

pursuant to section 354A.37, all allowable service which was credited to the member or former member shall be terminated.

Subd. 2. Repayment of refund. A coordinated member with at least two years of allowable service credited subsequent to the member's last application for and acceptance of a refund pursuant to section 354A.37 shall be entitled to repay the refund. The amount of the refund repayment shall be calculated pursuant to subdivision 3. If the member has previously applied for and accepted more than one refund, and the previous refund or refunds have not been repaid, then the member shall be entitled only to repay all outstanding refunds and shall not be entitled to repay only the most recent refund.

Subd. 3. Computation of refund repayment amount. If the coordinated member elects to repay a refund pursuant to subdivision 2, the repayment to the fund shall be in an amount equal to refunds which the member has accepted plus interest at the rate of six percent compounded annually from the date that the refund was accepted to the date that the refund is repaid.

History: 1979 c 217 s 23; 1980 c 509 s 141

354A.39 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

Any person who has been a member of the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and fire fund, the teachers retirement association, the Minnesota state patrol retirement association, the legislators retirement plan, the constitutional officers retirement plan, the Minneapolis employees retirement fund, the Duluth teachers retirement fund association new law coordinated program, the Minneapolis teachers retirement fund association coordinated program, the St. Paul teachers retirement fund association coordinated program, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing retirement benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all of the funds or in any two or more of the funds totals ten or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is used again in the computation for a retirement annuity from another fund and provided further that the person has not taken a refund from any of funds or associations since the person's membership in the fund or association has terminated. The annuity from each fund or association shall be determined by the appropriate provisions of the law governing each fund or association, except that the requirement that a person must have at least ten years of allowable service in the respective fund or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ten or more years.

History: 1979 c 217 s 24; 1981 c 37 s 2; 1981 c 269 s 7; 1981 c 298 s 11

354A.40 COMPUTATION OF BENEFITS WITH PARTIAL SERVICE AS COORDINATED MEMBER.

Subdivision 1. Retirement annuity. Any coordinated member of either the Minneapolis teachers retirement fund association or of the St. Paul teachers retirement fund association who has credited service prior to July 1, 1978 shall be entitled to receive a retirement annuity when otherwise qualified, the calculation of which shall utilize the applicable retirement annuity formula specified in articles of incorporation and bylaws of the teachers retirement fund association governing the basic program for that portion of credited service which was served prior to July 1, 1978, and the retirement annuity formula specified in section 354A.31 for the remainder of the member's credited service, both applied to the member's average salary as specified in section 354A.31, subdivision 4. The formula percentages to

be used in calculating the coordinated portion of the retirement annuity or coordinated service under this section shall recognize the coordinated service as a continuation of any service prior to July 1, 1978.

Subd. 2. **Disability benefits.** Any coordinated member of either the Minneapolis teachers retirement fund association or of the St. Paul teachers retirement fund association who has credited service prior to July 1, 1978 and who has or would, if not having elected coverage by the coordinated program, have had sufficient service credit prior to January 1, 1983, to meet the minimum service requirements for a disability benefit under the applicable disability benefit provisions of the articles of incorporation and bylaws of the teachers retirement fund association governing the basic program shall retain entitlement to apply when otherwise qualified for that disability benefit in lieu of the disability benefit provided by section 354A.36 until July 1, 1983, notwithstanding coverage by the coordinated program.

Subd. 3. **Survivor benefits.** The surviving spouse, or if there is no surviving spouse, the guardian of any surviving children of any coordinated member of either the Minneapolis teachers retirement fund association or of the St. Paul teachers retirement fund association who has credited service prior to July 1, 1978 and who has or would, if not having elected coverage by the coordinated program, have had sufficient service credit prior to December 31, 1979, to meet the minimum service requirements for survivor benefits under the applicable survivor benefit provisions of the articles of incorporation and bylaws of the teachers retirement fund association governing the basic program shall retain entitlement to apply when otherwise qualified for those survivor benefits in lieu of the survivor benefits provided by section 354A.35 until January 1, 1980, notwithstanding coverage by the coordinated program.

History: 1979 c 217 s 25

354A.41 ADMINISTRATION OF COORDINATED PROGRAM.

Subdivision 1. **Administrative provisions.** The provisions of the articles of incorporation and bylaws of the Minneapolis or the St. Paul teachers retirement fund association, whichever is applicable, relating to the administration of the fund shall govern the administration of the coordinated program and the provisions of the articles of incorporation and bylaws of the Duluth teachers retirement fund association relating to the administration of the fund shall govern the administration of the new law coordinated program in instances where the administrative provisions are not inconsistent with the provisions of sections 354A.31 to 354A.41, including but not limited to provisions relating to the composition and function of the board of trustees, the investment of assets of the teachers retirement fund association, and the definition of the plan year.

Subd. 2. **Actuarial valuations.** Whenever the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association shall make an actuarial valuation as required by section 356.215 after July 1, 1979, there shall be included in the report of the actuarial valuation a finding of the condition of the fund showing separately the basic and coordinated programs and whenever the Duluth teachers retirement fund association shall make an actuarial valuation as required by section 356.215 after July 1, 1981, there shall be included in the report of the actuarial valuation a finding of the condition of the fund showing separately the old law coordinated and new law coordinated programs. The finding shall include the level normal cost, accrued liability, assets, unfunded accrued liability, contribution required to meet the interest at the assumed rate on the unfunded accrued liability, and the contribution required to amortize the unfunded accrued liability by the date specified in section 356.215, subdivision 4, clause (7), for each program.

History: 1979 c 217 s 26; 1981 c 269 s 8