

## CHAPTER 3A

### LEGISLATOR'S RETIREMENT

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#### 3A.01 DEFINITIONS.

Subdivision 1. **Purposes.** The terms defined in this section for the purposes of this chapter shall be given the meanings ascribed to them.

Subd. 2. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member of the legislature or former legislator who is under the age of 18, or who is under the age of 22 and is a full time student, and who in either case is unmarried and was actually dependent for more than one-half of support upon the member or former legislator for a period of at least 90 days immediately prior to the death of the member or former legislator. It also includes any child of the member of the legislature or former legislator conceived during the lifetime of the member or former legislator and born after the death of the member or former legislator, who shall qualify as a dependent child from the date of birth.

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

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

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 [Repealed, 1971 c 928 s 11]

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

Subd. 7. **Average monthly salary.** With regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session, "average monthly salary" means final monthly salary during the member's final term of office as a member of the legislature; and with regard to any member of the legislature whose service terminates after the beginning of the 1981 legislative session, "average monthly salary" means the average of the member's highest five successive years of salary received as a member of the legislature after the beginning of the 1981 legislative session, or all the years and months salary after the beginning of the 1981 legislative session if the member's service after the beginning of the 1981 legislative session is less than five years. Any additional payments provided by law for legislative leadership positions shall not be included in any calculation of the average monthly salary of a legislator or former legislator.

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

**History:** 1965 c 896 s 1; 1974 c 445 s 1; 1975 c 368 s 1,2; 1978 c 796 s 1,2; 1981 c 224 s 2,3; 1981 c 224 s 274

**3A.02 RETIREMENT ALLOWANCE.**

Subdivision 1. **Qualifications.** Any former legislator:

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

(2) Who attains the normal retirement age; and

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

(4) Who has made all contributions provided for in section 3A.03, or who has made payments in lieu of all contributions provided for in section 3A.03 as provided for in subdivision 2; shall be entitled upon written application to the director to receive a retirement allowance monthly. For service rendered prior to the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance shall be an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered prior to the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, the retirement allowance shall be an amount equal to two and one-half percent per year of service of that member's average monthly salary. The retirement allowance shall accrue beginning with the first day of the month of receipt of the application and for the remainder of the former legislator's life, provided the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3.

Any member who has served during all or part of four regular sessions shall be deemed to have served eight years as a member of the legislature.

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

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

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

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

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

Subd. 3. **Appropriation.** The amounts required for payment of retirement allowances provided by this section are appropriated annually to the director from

the participation in the Minnesota post-retirement investment fund and shall be paid by him monthly to the recipients entitled thereto.

**Subd. 4. Deferred annuities augmentation.** The deferred annuity of any former legislator shall be augmented as provided herein. The required reserves applicable to the deferred annuity, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service, or July 1, 1973, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually.

**History:** 1965 c 896 s 2; 1967 c 877 s 1,2; 1969 c 155 s 1; 1969 c 399 s 1; 1969 c 1115 s 1; 1971 c 928 s 1,2; 1973 c 653 s 1-3; 1974 c 445 s 2-4; 1975 c 368 s 3-5; 1977 c 35 s 12; 1978 c 796 s 3-6; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 4

### 3A.03 CONTRIBUTIONS.

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

**Subd. 2. Refund.** (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a member of the legislature is entitled to receive upon application to the director a refund of all contributions credited to the member's account with interest at the rate of five percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former member of the legislature or his or her survivors under this chapter. Should the former member of the legislature again be a member of the legislature after having taken a refund as provided above, he or she shall be considered a new member. However, a new member may reinstate the rights and credit for service forfeited, provided the new member repays all refunds taken plus interest thereon at six percent per annum compounded annually.

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

**History:** 1965 c 896 s 3; 1969 c 399 s 1; 1971 c 928 s 3; 1973 c 653 s 4; 1974 c 445 s 5,6; 1975 c 368 s 6; 1978 c 796 s 7; 1980 c 614 s 37; 1981 c 224 s 274; 1983 c 286 s 1; 1984 c 564 s 3

### 3A.04 SURVIVOR BENEFIT.

**Subdivision 1. Surviving spouse.** Upon the death of a member of the legislature while serving as a member, or upon the death of a former legislator who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1) and who was not receiving a retirement allowance, the surviving spouse shall be entitled to receive a survivor benefit in the amount of one-half of the retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service of the member or the former legislator or eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement

allowance, the surviving spouse shall be entitled to one-half of the amount of the allowance being paid to the former legislator. The surviving spouse benefit shall be paid during the lifetime of the surviving spouse, but shall cease and terminate upon the remarriage of the surviving spouse.

Subd. 1a. **Increase in survivor benefits.** Survivor benefits provided in subdivision 1 authorized and in effect on June 3, 1977, shall be increased by 25 percent, effective retroactively to January 1, 1974, or the date the survivor benefit became payable, whichever is later.

Subd. 2. **Dependent children.** Upon the death of a member of the legislature while serving as a member, or upon the death of a former member of the legislature who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1) and who was not receiving a retirement allowance, each dependent child of the member or former legislator shall be entitled to receive a survivor benefit in the following amount: First dependent child, a monthly allowance which equals 25 percent of the monthly retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service or eight years whichever is greater; for each additional dependent child, a monthly allowance which equals 12 1/2 percent of the monthly retirement allowance of the member or former legislator computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly retirement allowance of the member or former legislator computed as in the case of the first child. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage specified above of the amount of the allowance which was paid to the former legislator for the month immediately prior to the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent children, if there is one.

Subd. 3. **Payment.** The surviving spouse's and dependent children's survivor benefits payable under this section shall be paid by the director monthly in the same manner as retirement allowances are authorized to be paid by this chapter.

Subd. 4. **Refunds to estate.** Upon the death of a member of the legislature or former legislator who was not receiving a retirement allowance without a surviving spouse and without any dependent children, regardless of when the death occurred, the estate of the member or former legislator, upon application of the representative of the estate, shall be entitled to a refund of contributions of the deceased member of the legislature or former legislator.

**History:** 1965 c 896 s 4; 1967 c 877 s 3,4; 1969 c 399 s 1; 1969 c 1115 s 2,3; 1971 c 928 s 4-6; 1973 c 653 s 5,6; 1974 c 445 s 7,8; 1975 c 368 s 7,8; 1977 c 429 s 1-3; 1978 c 796 s 8,9; 1980 c 614 s 38,39; 1981 c 224 s 5-8; 1981 c 224 s 274

### 3A.05 APPLICATION FOR SURVIVOR BENEFIT.

Applications for survivor benefits pursuant to section 3A.04 shall be filed with the director by the surviving spouse and dependent children entitled to benefits pursuant to section 3A.04, or by the guardian of the estate, if there is one, of the dependent children. Survivor benefits shall accrue as of the first day of the month following the death of the member of the legislature or former legislator and

payments shall commence as of the first of the month next following the filing of the application, and shall be retroactive to the date the benefit accrues; provided, however, that no payment shall be retroactive for more than 12 months prior to the month the application is filed with the director.

**History:** 1965 c 896 s 5; 1971 c 928 s 7; 1974 c 445 s 9; 1975 c 368 s 9; 1981 c 224 s 9

### 3A.06 RESIGNATION FROM RETIREMENT SYSTEMS.

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

**History:** 1965 c 896 s 6; 1971 c 25 s 5

### 3A.07 APPLICATION.

This chapter applies to members of the legislature in service upon July 1, 1965, or thereafter, who otherwise meet the requirements of this chapter.

**History:** 1965 c 896 s 7; 1981 c 224 s 274

**3A.08** [Repealed, 1979 c 303 art 3 s 41]

### 3A.09 MEMBERSHIP IN P.E.R.A.

Any person who becomes a member of the legislature and who, on the date of becoming a member of the legislature, is a member of the public employees retirement association may elect, within six months of the date of becoming a member of the legislature, to remain a member of the public employees retirement association and shall not be required to make any contributions pursuant to section 3A.03. No person who is a member of the legislature shall belong to the public employees retirement association for service as a member of the legislature and make contributions pursuant to section 3A.03 or accrue rights pursuant to this chapter at the same time. A member of the legislature who is not a member of the public employees retirement association on the date the person becomes a member of the legislature, shall have contributions deducted from salary for all pay periods after the date the person becomes a member of the legislature. A member of the legislature may belong to the public employees retirement association for service performed other than as a member of the legislature and continue to accrue rights pursuant to this chapter and make contributions as required by section 3A.03.

**History:** 1965 c 896 s 9; 1967 c 877 s 5; 1969 c 155 s 2; 1981 c 224 s 10

### 3A.10 ONE TERM OF SERVICE BEING A CERTAIN TIME.

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

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

have served had he taken the oath of office on the day appointed for the commencement of the full term of office.

**History:** 1965 c 896 s 10; 1967 c 877 s 6; 1975 c 368 s 10

### 3A.11 PARTICIPATION IN MINNESOTA POST-RETIREMENT INVESTMENT FUND.

Subdivision 1. The reserves necessary to fund the retirement allowance granted pursuant to section 3A.02 to a former legislator upon retirement shall be transferred by the director to the Minnesota post-retirement investment fund as of the date benefits begin to accrue in accord with section 11A.18. The amount of the transfer made hereunder shall be determined by an approved actuary as defined in section 352.01, subdivision 15, in accord with an appropriate mortality table using an interest assumption set at the rate specified in section 356.215, subdivision 4, clause (4).

Subd. 2. Annuities and benefits shall be adjusted in accord with the provisions of section 11A.18.

Subd. 3. [Repealed, 1980 c 614 s 191]

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

**History:** 1973 c 653 s 7; 1974 c 445 s 10,11; 1980 c 607 art 14 s 45 subd 2, s 46; 1981 c 224 s 11,12; 1983 c 286 s 2

### 3A.12 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.

Subdivision 1. **Entitlement to annuity.** Any legislator who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis employees retirement fund, or the state patrol retirement fund, 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 or firefighters, shall be entitled when qualified to an annuity from each fund if his total allowable service for which he has credit in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years. The augmentation of deferred annuities provided in section 3A.02, subdivision 4, shall apply to the annuities accruing hereunder.

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

**History:** 1975 c 368 s 11; 1977 c 429 s 63; 1981 c 37 s 2; 1981 c 224 s 13; 1981 c 298 s 11