

CHAPTER 353D

PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN

<p>353D.01 Public employees defined contribution plan.</p> <p>353D.02 Election of coverage.</p> <p>353D.021 Public employees retirement association to provide plan information to certain ambulance attendants.</p> <p>353D.03 Funding of plan.</p>	<p>353D.031 Ambulance service personnel incentive program.</p> <p>353D.04 Contributions and deductions in error.</p> <p>353D.05 Investment of funds.</p> <p>353D.051 Vesting for incentive allocation.</p> <p>353D.06 Reporting.</p> <p>353D.07 Benefits.</p> <p>353D.091 Federal requirements.</p> <p>353D.12 Contributions for prior service.</p>
--	---

353D.01 PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN.

Subdivision 1. Establishment. The public employees defined contribution plan is administered by the public employees retirement association under supervision of the association board of trustees. To assist it in governing the operations of the plan, the board may appoint an advisory committee of not more than nine members who are representative of the employers and employees who participate in the plan.

Subd. 1a. Emergency medical services personnel account. A separate account is created in the general fund to be known as the emergency medical services personnel account. The account consists of all funds deposited in the general fund from the drivers license surtax, and all funds forfeited under sections 353D.051 and 353D.06. Investment earnings on money in the account must be credited to the account.

Subd. 1b. Appropriation. Money from the emergency medical services account is appropriated on January 1 each year to the public employees retirement association to fund the ambulance service personnel incentive program as provided in section 353D.031.

Subd. 2. Eligibility. (a) Except as provided in section 353D.11, eligibility to participate in the defined contribution plan is open to:

(1) an elected local government official of a governmental subdivision who elects to participate in the plan and who is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7. The service of an elected local government official on an additional board, commission, or committee, even if part of the official's elected position, is not covered service under this plan. Eligibility to participate in the defined contribution plan terminates when the participant ceases to be an elected local government official. For purposes of this chapter, an elected local government official does not include an elected county sheriff;

(2) eligibility to participate is open to basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate; and

(3) a person who qualifies to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031.

(b) For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Elected local government official does not include an elected county sheriff.

(c) Except as provided in section 353D.11, elected local government officials and first response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the plan.

History: 1991 c 291 art 19 s 2; 1991 c 341 s 35

NOTE: For the effective date of the amendments to this section, see Laws 1991, chapter 291, article 19, section 11.

353D.02 ELECTION OF COVERAGE.

(a) Elected local government officials eligible under section 353D.01, subdivision 2, paragraph (a), clause (1), may elect to participate in the defined contribution plan after being elected or appointed to a public office by filing a membership application on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by the association within 60 days of the receipt of the contributions. If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2. An election to participate in the plan is irrevocable during incumbency in office.

(b) For personnel eligible under section 353D.01, subdivision 2, paragraph (a), clause (2), a public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity with eligible personnel may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is irrevocable.

(c) A person eligible under section 353D.01, subdivision 2, paragraph (a), clause (3), may elect to participate in the plan. The person must elect to participate or decline to participate by June 30, 1994, or by June 30 of the fiscal year after June 30, 1994, which the person first becomes qualified to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031.

History: 1991 c 291 art 19 s 3; 1991 c 341 s 36

NOTE: For the effective date of the amendments to this section, see Laws 1991, chapter 291, article 19, section 11.

353D.021 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION TO PROVIDE PLAN INFORMATION TO CERTAIN AMBULANCE ATTENDANTS.

The public employees retirement association shall undertake all practical efforts to inform ambulance attendants, ambulance drivers, and ambulance service medical directors on an ongoing basis about the ambulance service personnel incentive program and their eligibility to elect to participate in this plan. The commissioner of health and the executive director of the state board of investment shall provide all reasonable assistance to the public employees retirement association in preparing relevant information on the incentive program and the plan.

History: 1991 c 291 art 19 s 4

NOTE: For the effective date of this section, see Laws 1991, chapter 291, article 19, section 11.

353D.03 FUNDING OF PLAN.

(a) An elected local government official eligible under section 353D.01, subdivision 2, paragraph (a), clause (1), who elects to participate in the public employees defined contribution plan shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10. A participating elected local government official's governmental subdivision shall contribute a matching amount.

(b) A public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate in the plan shall fund benefits for its personnel eligible under section 353D.01, subdivision 2, paragraph (a), clause (2), who individually elect to participate, except that personnel who are paid for their services may elect to make member contributions in an amount not to exceed the service's contribution on their behalf. Ambulance service contributions on behalf of salaried employees must be a fixed percentage of salary. An ambu-

lance service making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions. An ambulance service with personnel for whom funding is provided under the paragraph that has ambulance attendants, ambulance drivers, and ambulance service medical directors qualified to have an ambulance service personnel incentive payment made on the person's behalf under section 353D.031 may discontinue that funding if the ambulance service has given its participating personnel at least 18 months notice of its intent to discontinue its funding of the plan.

History: 1991 c 291 art 19 s 5

NOTE: For the effective date of the amendments to this section, see Laws 1991, chapter 291, article 19, section 11.

353D.031 AMBULANCE SERVICE PERSONNEL INCENTIVE PROGRAM.

Subdivision 1. Administration. The money credited in the emergency medical services personnel account must be allocated annually by the executive director of the public employees retirement association.

Subd. 2. Eligibility for allocation. (a) The money credited in the emergency medical services personnel account must be annually allocated on the basis of the number of qualified personnel and their credited service during the previous year ending June 30.

(b) The amount of revenue paid to the emergency medical services account since the effective date of Laws 1991, chapter 291, article 19, section 6, or the date of the last allocation, whichever applies, plus any net investment income credited to the account, must be determined.

(c) The number of qualified personnel must be determined. Qualified personnel are ambulance attendants, ambulance drivers, and ambulance service medical directors who:

(1) are employed by or serving an ambulance service that is licensed as such by the state of Minnesota;

(2) perform all or a predominant portion of services in Minnesota or on behalf of Minnesota residents, as certified by the chief administrative officer of the ambulance service;

(3) are currently certified by the department of health as an ambulance attendant, ambulance driver, or ambulance service medical director and are certified as active by the chief administrative officer of the ambulance service;

(4) for the year in question, would be considered a volunteer attendant under section 144.8091, subdivision 2, except that the salary limit is \$3,000 for calendar year 1992, and is \$3,000 multiplied by the cumulative percentage increase in the national consumer price index for all urban wage earners published by the federal Department of Labor since December 31, 1992;

(5) for an ambulance service medical director, meets the salary limit set forth in clause (4) based only on the person's hourly stipends or salary for service as a medical director; and

(6) has credit for no more than 20 years of service.

(d) The amount of credited service by qualified personnel in the form of units must be determined. A year of service by a qualified person after the person elects to participate in the plan, or after January 1, 1992, whichever is later, is equal to two units. If a qualified person has service that would have qualified before the date of election of participation or January 1, 1992, whichever is later, the person must receive an additional one-fifth of a unit per year of that service for a maximum of five years, except that the person cannot receive credit for any year in which contributions were made by an ambulance service on the person's behalf under sections 353D.03 and 353D.04.

Subd. 3. Allocation. The money available for allocation must be divided by the greater of 2,000 units or the total number of units associated with qualified personnel

to determine the dollar value of a unit. A qualified person is entitled to have deposited on the person's behalf in the person's individual account an amount equal to the dollar value of a unit multiplied by the person's number of units credited for that year under subdivision 2, paragraph (d).

History: 1991 c 291 art 19 s 6

NOTE: For the effective date of this section, see Laws 1991, chapter 291, article 19, section 11.

353D.04 CONTRIBUTIONS AND DEDUCTIONS IN ERROR.

Subdivision 1. Contributions. (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association and credited to the individual account established for the participating officer.

(b) Ambulance service contributions must be remitted on a regular periodic basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

Subd. 2. Deductions in error. Deductions taken totally or partially in error by the employer from the salary of an elected official and contributions made by the employer may be refunded upon request to the elected official and the employer.

(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.

(b) In the case of a partial refund, the association shall refund the amount of the actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.

History: 1991 c 341 s 37

353D.05 INVESTMENT OF FUNDS.

Subdivision 1. Investment. Employing unit contributions under section 353D.03 and ambulance service personnel incentive allocation under section 353D.031, after the deduction of an amount for administrative expenses, and individual participant contributions must be remitted to the state board of investment for investment in the Minnesota supplemental investment fund established by section 11A.17.

Subd. 2. Investment options. (a) A participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, the guaranteed return account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of the total contributions and ambulance service personnel incentive allocation to be used to purchase shares in each of the accounts.

(b) A participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment fund or funds specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceed 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account. A choice of investment options is effective no later than the first pay date occurring more than 30 days after receipt of the written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the guaranteed return

account. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the guaranteed return account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts other than the guaranteed return account. A change under this paragraph is effective as soon as cash flow to an account permits, but not later than six months from the requested change.

Subd. 3. Administrative expenses. The public employees retirement association may deduct an amount to defray the expenses of the association in administering the plan. The amount must be set annually by the executive director of the association, but not to exceed two percent of the total amount of the employing unit contributions to the plan and the ambulance service personnel incentive allocation received by the plan.

History: 1991 c 291 art 19 s 7; 1991 c 341 s 38

NOTE: For the effective date of the amendments to this section, see Laws 1991, chapter 291, article 19, section 11.

353D.051 VESTING FOR INCENTIVE ALLOCATION.

(a) Sixty months of service credit, accumulated after the date on which the person elects to participate in the plan, are required for vesting of retirement benefits under section 353D.07, other than on account of death, that are derived from ambulance service personnel incentive allocations under section 353D.031. These 60 months must be accumulated within 120 months of the first month of service credit earned after the date on which the person elects to participate in the plan. No minimum period of service is required for vesting of benefits under section 353D.07, on account of death, that are derived from ambulance service personnel incentive allocations under section 353D.031, once the person has elected to participate in the plan. Upon completion of 60 months of service under the plan with one or more participating ambulance services, a participant terminating active service is entitled to receive the value of the participant's individual account as provided in section 353D.07.

(b) Amounts derived from ambulance service personnel incentive allocations under section 353D.031 that are credited to a person's account are forfeited at the end of the 120th month after the first month of service credit earned after the date on which the person elects to participate in the plan, if the person does not have 60 months of service credit at that time. Funds forfeited must be added to the emergency medical services personnel account for the subsequent January 1 allocation under section 353D.031.

History: 1991 c 291 art 19 s 8

NOTE: For the effective date of this section, see Laws 1991, chapter 291, article 19, section 11.

353D.06 REPORTING.

The executive director of the public employees retirement association shall prescribe the reporting forms required from employing units and the election forms required from participants. Reporting forms must contain names, identification numbers, amount of contribution by and on behalf of each participant, and such other data as is required to keep an accurate record of the account value of each participant and to determine eligibility for aid allocations of ambulance service personnel incentive amounts under section 353D.031.

In the event an ambulance service fails to provide required information within 60 days after the public employees retirement association sends the service a notice that the information is overdue, its members forfeit the service units credited and its members are not entitled to the ambulance service personnel incentive amount allocated for that year. Ambulance services that provide fraudulent information are subject to criminal prosecution.

History: 1991 c 291 art 19 s 9

NOTE: For the effective date of the amendments to this section, see Laws 1991, chapter 291, article 19, section 11.

353D.07 BENEFITS.

[For text of subd 1, see M.S.1990]

Subd. 2. Payment of benefits. Withdrawal of or a retirement benefit based on individual participant contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of a participant. No investment options or transfers of all or a portion of the deceased elected official's shares in the income share, growth share, common stock index, bond market, money market, or guaranteed investment accounts shall be made following death or termination of the participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Subd. 3. Form of benefit. A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of retirement and may be rolled over into another qualified plan at the option of the participant. As an alternative to a lump-sum distribution, the participant may choose to have the association transfer the total account value for the purchase of an annuity payable at a designated age to an insurance company of the participant's choice that is licensed to do business in the state.

[For text of subds 4 and 5, see M.S.1990]

History: 1991 c 341 s 39,40

353D.091 FEDERAL REQUIREMENTS.

Subdivision 1. Plan tax qualification and status. The public employees retirement association shall seek a determination from the Internal Revenue Service regarding the tax qualification status of the incentive program and from the United States Department of Labor regarding whether the incentive program must comply with federal Employee Retirement Income Security Act (ERISA) requirements.

Subd. 2. Report to legislature. The executive director shall immediately report the results of each determination to the chairs of the senate governmental operations committee, house governmental operations committee, and legislative commission on pensions and retirement.

Subd. 3. Implementation delay. The association shall not credit participants with service units nor transfer money from the emergency medical services personnel account under section 353D.031, subdivision 1, into individual accounts unless written notification is received from (1) the Internal Revenue Service that implementation of the incentive program does not jeopardize the tax-exempt status of the defined contribution plan or a public pension plan under section 356.30, subdivision 3, and (2) the United States Department of Labor that the incentive program need not comply with federal ERISA requirements, including any requirements for tax-deferred treatment of contributions and interest earned on contributions.

Subd. 4. Rules and policies. If the incentive program receives favorable determinations from both the Internal Revenue Service and the United States Department of Labor, the association shall formulate and adopt rules or policies in accordance with the restrictions and standards of the Internal Revenue Code and rules and regulations of the Internal Revenue Service.

History: 1991 c 291 art 19 s 10

NOTE: For the effective date of this section, see Laws 1991, chapter 291, article 19, section 11.

353D.12 CONTRIBUTIONS FOR PRIOR SERVICE.

Subdivision 1. Eligibility; contributions. An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before June 30,

1991, that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353. The association shall not accept contributions for prior service after the elected official ceases to hold elected office.

[For text of subds 2 to 6, see M.S.1990]

History: 1991 c 341 s 41