

## CHAPTER 356

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**356.001 PURPOSE OF PUBLIC PLANS.**

**Subdivision 1. Exclusive benefit of members and beneficiaries.** The public plans and funds specified in subdivision 4 are established to provide for the retirement of their members and to provide funds for the beneficiaries of members in the event of death of a member. The public plans and funds are established and shall be maintained for the exclusive benefit of the members and the beneficiaries of the members. Except as provided in subdivisions 2 and 3, no part of the moneys of the plans and funds shall revert to the plan or fund or be used for or diverted to purposes other than the exclusive benefit of the members or their beneficiaries.

**Subd. 2. Allowable expenses.** The necessary, reasonable, and direct expenses of maintaining, protecting, and administering the public plan or fund, as authorized in the laws governing the plan or fund, shall be considered as expenditures for the exclusive benefit of the members or their beneficiaries.

**Subd. 3. Effect of amendments or termination.** If a public plan or fund as defined in subdivision 4 is terminated or the plan or fund provisions are amended, no part of the moneys held in the plan or fund shall be used for or diverted to any purpose other than the exclusive benefit of the members or their beneficiaries, except as provided in this subdivision.

If a plan or fund is terminated, all affected members have a nonforfeitable interest

in their benefits accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination and the funding ratio of the plan or fund applied to the accrued benefit of each affected member.

The board of trustees of the plan or fund shall then, as soon as administratively feasible, pay each eligible member or beneficiary on behalf of a member the amount in the member's account in a lump sum. In the case of a member whose whereabouts is unknown, the board shall notify the member at the last known address by certified mail with return receipt requested advising the member of the member's right to a pending distribution. If the member cannot be located in this manner, the board shall establish a custodial account for the member's benefit in a federally insured bank, savings and loan association, or credit union in which the member's account balance shall be deposited. If the board receives proof of death of a member that is satisfactory to the board, the account balance shall be paid to the beneficiary of the member.

**Subd. 4. Covered plans and funds.** This section applies to all public pension and retirement plans and funds established pursuant to the laws of the state of Minnesota that receive contributions from moneys derived from taxation.

**Subd. 5. Construction.** Nothing contained in this section shall be construed to authorize, or otherwise imply, a legislative policy or intent favoring the termination of any plan or fund to which this section applies.

**History:** 1983 c 286 s 23

**356.01-356.14** [Obsolete]

**356.15** [Renumbered 9.28]

**356.16** [Obsolete]

**356.17** [Renumbered 3.30]

### **356.18 REQUESTS FOR RELIEF AND RETIREMENT INCREASES.**

Subdivision 1. No increase authorized by any law hereafter enacted, in any pension, annuity, or retirement paid by the public employees retirement association, the Minnesota state retirement system, the state teachers retirement fund, any police or firefighter's retirement fund or relief association, or from any relief association or retirement fund to which contributions are made from moneys derived from taxation, shall be paid to any pensioner, annuitant, or recipient unless that person first requests in writing that payment of the increase be made.

Subd. 2. [Repealed, 1981 c 224 s 276]

**History:** 1963 c 521 s 1; 1977 c 429 s 63; 1981 c 224 s 167

### **356.20 PUBLIC PENSION FUND FINANCIAL REPORTING REQUIREMENT.**

Subdivision 1. **Report required.** The governing or managing board or administrative officials of the public pension and retirement funds enumerated in subdivision 2 shall annually prepare and file a financial report following the close of each fiscal year. This requirement shall also apply to any fund which may be a successor to any organization so enumerated or to any newly formed retirement fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations. The report shall be prepared under the supervision and at the direction of the management of each fund and shall be signed by the presiding officer of the managing board of the fund and the chief administrative official of the fund.

Subd. 2. **Covered public pension funds.** (1) State employees retirement fund.

(2) Public employees retirement fund.

(3) Teachers retirement fund.

(4) State patrol retirement fund.

(5) Minneapolis teachers retirement fund association.

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- (6) St. Paul teachers retirement fund association.
- (7) Duluth teachers retirement fund association.
- (8) Minneapolis employees retirement fund.
- (9) University of Minnesota faculty retirement plan.
- (10) University of Minnesota faculty supplemental retirement plan.
- (11) Judges retirement fund.
- (12) Any police or firefighter's relief association enumerated in section 69.77, subdivision 1a or 69.771, subdivision 1.
- (13) Public employees police and fire fund.
- (14) Minnesota state retirement system correctional officers retirement fund.
- (15) Public employees local government correctional service retirement plan.

**Subd. 3. Filing requirement.** The financial report is a public record. A copy of the report or a synopsis of the report containing the information required by this section shall be distributed annually to each member of the fund and to the governing body of each governmental subdivision of the state which makes employers contributions thereto or in whose behalf taxes are levied for the employers' contribution. A signed copy of the report shall be delivered to the executive director of the legislative commission on pensions and retirement and to the legislative reference library not later than six months after the close of each fiscal year or one month following the completion and delivery to the retirement fund of the actuarial valuation report of the fund by the actuary retained by the legislative commission on pensions and retirement, if applicable, whichever is later.

**Subd. 4. Contents of financial report.** The financial report required by this section must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited. The report must include, as part of its exhibits or footnotes, an actuarial disclosure item based on the actuarial valuation calculations prepared by the commission-retained actuary or by the actuary retained by the retirement fund or plan, if applicable, according to applicable actuarial requirements enumerated in section 356.215, and specified in the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement. The accrued assets, the accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund or plan must be disclosed. The disclosure item must contain a declaration by the actuary retained by the legislative commission on pensions and retirement or the actuary retained by the fund or plan, whichever applies, specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and with the most recent applicable standards for actuarial work adopted by the legislative commission on pensions and retirement.

(a) Assets of the fund or plan contained in the disclosure item must include the following statement of the actuarial value of current assets as defined in section 356.215, subdivision 1:

	Value at cost	Value at market
Cash, cash equivalents, and short-term securities	.....	.....
Accounts receivable	.....	.....
Accrued investment income	.....	.....
Fixed income investments	.....	.....
Equity investments other than real estate	.....	.....
Real estate investments	.....	.....
Equipment	.....	.....

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Equity in the Minnesota postretirement investment fund	.....	.....
Other	.....	.....
Total assets		
Value at cost		.....
Value at market		.....
Value of current assets		.....

(b) The unfunded actuarial accrued liability of the fund or plan contained in the disclosure item must include the following measures of unfunded actuarial accrued liability, using the value of current assets:

(1) unfunded actuarial accrued liability, determined by subtracting the current assets and the present value of future normal costs from the total current and expected future benefit obligations; and

(2) unfunded pension benefit obligation, determined by subtracting the current assets from the actuarial present value of credited projected benefits.

If the current assets of the fund or plan exceed the actuarial accrued liabilities, the excess must be disclosed and indicated as a surplus.

(c) The pension benefit obligations schedule included in the disclosure must contain the following information on the benefit obligations:

(1) The pension benefit obligation, determined as the actuarial present value of credited projected benefits on account of service rendered to date, separately identified as follows:

- (i) For annuitants
  - Retirement annuities
  - Disability benefits
  - Surviving spouse and child benefits
- (ii) For former members without vested rights
- (iii) For deferred annuitants' benefits, including any augmentation
- (iv) For active employees
  - Accumulated employee contributions, including allocated investment income
  - Employer-financed benefits vested
  - Employer-financed benefits nonvested
  - Total pension benefit obligation;

(2) If there are additional benefits not appropriately covered by the foregoing items of benefit obligations, a separate identification of the obligation.

(d) Any additional statements or exhibits or more detailed or subdivided itemization of a disclosure item that will enable the management of the fund to portray a true interpretation of the fund's financial condition must be included in the additional statements or exhibits.

Subd. 4a. For any police or firefighter's relief association referred to in subdivision 2, clause (12), a financial report duly filed pursuant to and meeting the requirements of section 69.051 shall be deemed to have met the requirements of subdivision 4.

Subd. 5. [Repealed, 1984 c 383 s 5]

**History:** 1965 c 359 s 1; 1969 c 249 s 1; 1971 c 7 s 1-3; 1971 c 197 s 4; 1971 c 281 s 1,2; 1975 c 192 s 1,2; 1978 c 563 s 6-8; 1979 c 50 s 49; 1981 c 37 s 2; 1981 c 224 s 168; 1981 c 298 s 11; 1984 c 564 s 42; 1Sp1985 c 7 s 26; 1986 c 359 s 26; 1987 c 259 s 52-54; 1987 c 372 art 1 s 19; 1991 c 269 art 3 s 2

**356.21** [Repealed, 1975 c 192 s 7]

**356.211** [Repealed, 1975 c 192 s 7]

**356.212** [Repealed, 1975 c 192 s 7]**356.215 ACTUARIAL VALUATIONS AND EXPERIENCE STUDIES.**

Subdivision 1. **Definitions.** For the purposes of sections 3.85 and 356.20 to 356.23, each of the following terms have the meaning given:

(1) "Actuarial valuation" means a set of calculations prepared by the actuary retained by the legislative commission on pensions and retirement if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(2) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who has at least 15 years of service to major public employee pension or retirement funds or who is a fellow in the society of actuaries.

(3) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual if the benefit plan is governed by section 69.773 or over the earnings of the individual if the benefit plan is governed by any other law between the entry age and the assumed exit age, with the portion of this actuarial present value which is allocated to the valuation year to be the normal cost and the portion of this actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(4) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(5) "Current assets" means the value of all assets at cost, including realized capital gains or losses, plus one-third of any unrealized capital gains or losses.

(6) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of current assets and the present value of future normal costs.

(7) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

Subd. 2. **Requirements.** It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal, the legislative commission on pensions and retirement shall have prepared by the actuary retained by the commission annual actuarial valuations of the retirement plans enumerated in section 3.85, subdivision 11, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section 3.85, subdivision 11, paragraph (b), clauses (1), (2), and (7). The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund or association operating under the control or supervision of

any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund coming within the provisions of section 356.216.

**Subd. 3. Reports.** The actuarial valuations required annually must be made as of the beginning of each fiscal year. Two copies of the valuation must be delivered to the executive director of the legislative commission on pensions and retirement, to the commissioner of finance and to the legislative reference library, not later than the first day of the sixth month occurring after the end of the previous fiscal year. Two copies of a quadrennial experience study must be filed with the executive director of the legislative commission on pensions and retirement, with the commissioner of finance, and with the legislative reference library, not later than the first day of the 11th month occurring after the end of the last fiscal year of the four-year period which the experience study covers. For actuarial valuations and experience studies prepared at the direction of the legislative commission on pensions and retirement, two copies of the document must be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

**Subd. 4. Actuarial valuation; contents.** The actuarial valuation must be made in conformity with the requirements of the definition contained in subdivision 1 and the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement. The actuarial valuation must measure all aspects of the benefit plan of the fund in accordance with changes in benefit plans, if any, and salaries reasonably anticipated to be in force during the ensuing fiscal year. The actuarial valuation must be prepared in accordance with the entry age actuarial cost method.

The actuarial valuation required under this section must include the information required in subdivisions 4a to 4k.

**Subd. 4a. Normal cost.** For a fund providing benefits in whole or in part under a defined benefit plan, the actuarial valuation must indicate the level normal cost of the benefits provided by the laws governing the fund as of the date of the valuation, calculated in accordance with the entry age actuarial cost method. The normal cost must be expressed as a level percentage of the present value of future payrolls of the active participants of the fund as of the date of the valuation.

**Subd. 4b. Accrued liability.** For a fund providing benefits under a defined benefit plan, the actuarial valuation must contain an exhibit indicating the actuarial accrued liabilities of the fund. This figure is the present value of future benefits, reduced by the present value of future normal costs, calculated in accordance with the entry age actuarial cost method.

**Subd. 4c. Defined contribution accumulations.** For each fund providing benefits under the money purchase or defined contribution plan, the actuarial valuation shall contain an exhibit indicating the member contributions accumulated at interest, as apportioned to members accounts, to the date of the valuation. These accumulations shall be separately tabulated in a manner which properly reflects any differences in money purchase or defined contribution annuity rates which may apply.

**Subd. 4d. Interest and salary assumptions.** (a) For funds governed by chapters 352, 352B, 353, 353C, and 354, the actuarial valuation must use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and a future salary increase assumption of 6.5 percent.

(b) For funds governed by chapter 354A, the actuarial valuation must use preretirement and postretirement assumptions of 8.5 percent and a future salary increase assumption of 6.5 percent, but the actuarial valuation must reflect the payment of postretirement adjustments to retirees, based on the methods specified in the bylaws of the fund as approved by the legislature. For a fund governed by chapter 422A, the actuarial valuation shall use a preretirement interest assumption of six percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.04 multiplied by the salary for the preceding year.

(c) For all other funds not specified in paragraph (a), (b), or (d), the actuarial valuation must use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and a future salary increase assumption of 3.5 percent.

(d) For funds governed by chapters 3A, 352C, and 490, the actuarial valuation must use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and a future salary increase assumption of 6.5 percent in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever applies, or from applicable compensation council recommendations under section 15A.082.

**Subd. 4e. Other assumptions.** The actuarial valuation must use assumptions concerning mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor. These must be set at levels consistent with those determined in the most recent quadrennial experience study completed under subdivision 5, if required, or representative of the best estimate of future experience, if a quadrennial experience study is not required. The actuarial valuation must contain an exhibit indicating any actuarial assumptions used in preparing the valuation report.

**Subd. 4f. Public sector accounting disclosure information.** The actuarial valuation must contain those actuarial calculations necessary to allow the retirement plan administration or participating employing units to prepare the pension-related portions of annual financial reporting that meet generally accepted accounting principles for the public sector.

**Subd. 4g. Amortization contributions.** (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation must contain an exhibit indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared. The level percent additional contribution must be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1989, and each successive actuarial valuation is the first actuarial valuation date occurring after June 1, 2020.

(c) For any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applica-

ble, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the Minneapolis employees retirement fund, the established date for full funding is June 30, 2020.

**Subd. 4h. Actuarial gains and losses.** The actuarial valuation must contain an exhibit consisting of an analysis by the actuary explaining the net increase or decrease in the unfunded actuarial accrued liability since the last valuation. The explanation must subdivide the net increase or decrease in the unfunded actuarial accrued liability into at least the following parts:

(a) increases or decreases in the unfunded actuarial accrued liability because of changes in benefits;

(b) increases and decreases in the unfunded actuarial accrued liability because of changes in actuarial assumptions;

(c) increases or decreases in the unfunded actuarial accrued liability attributable to actuarial gains or losses resulting from any experience deviations from the assumptions on which the valuation is based, as follows:

(i) actual investment earnings;

(ii) actual postretirement mortality rates;

(iii) actual salary increase rates; and

(iv) the remainder of the increase or decrease not attributable to any separate source;

(d) increases or decreases in unfunded actuarial accrued liability because of other reasons, including the effect of any amortization contribution paid or additional amortization contribution previously calculated but unpaid; and

(e) increases or decreases in unfunded actuarial accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.



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Subd. 4i. **Membership tabulation.** The actuarial valuation must contain a tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation must be made for each general benefit program. The tabulations must be prepared by the administration of the pension fund and must contain the following information:

- |  |        |
|--|--------|
| (1) Active members                                     | Number |
| As of last valuation date                              |        |
| New entrants   |        |
| Total  |        |
| Separations from active service                        |        |
| Refund of contributions                                |        |
| Separation with deferred annuity                       |        |
| Separation with neither refund<br>nor deferred annuity |        |
| Disability   |        |
| Death  |        |
| Retirement with service annuity                        |        |
| Total separations                                      |        |
| As of current valuation date                           |        |
| (2) Annuitants   | Number |
| As of last valuation date                              |        |
| New entrants   |        |
| Total  |        |
| Terminations   |        |
| Deaths   |        |
| Other  |        |
| Total terminations                                     |        |
| As of current valuation date                           |        |

The tabulation required under clause (2) must be made separately for each of the following classes of benefit recipients:

- (1) service retirement annuitants;
- (2) disability benefit recipients;
- (3) survivor benefit recipients; and
- (4) deferred annuitants.

Subd. 4j. **Administrative expenses.** The actuarial valuation must indicate the administrative expenses of the fund, expressed both in dollars and as a percentage of covered payroll.

Subd. 4k. **Plan summary.** The actuarial valuation must contain a summary of the principal provisions of the plan upon which the valuation is based.

Subd. 5. **Quadrennial experience study; contents.** A quadrennial experience study, if required, must contain an actuarial analysis of the experience of the fund and a comparison of the experience with the actuarial assumptions on which the most recent actuarial valuation of the retirement fund was based.

Subd. 6. **Actuarial services by approved actuaries.** (a) The actuarial valuation or quadrennial experience study must be made and any actuarial consulting services for a retirement fund or plan must be provided by an approved actuary. The actuarial valuation or quadrennial experience study must include a declaration that it has been prepared according to sections 356.20 to 356.23 and the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement.

(b) Actuarial valuations, or experience studies prepared by an actuary retained by a retirement fund or plan must be submitted to the legislative commission on pensions and retirement within ten days of the submission of the document to the retirement fund or plan.

Subd. 7. **Establishment of actuarial assumptions.** Actuarial assumptions used for

actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the legislative commission on pensions and retirement. A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the legislative commission on pensions and retirement, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

**History:** 1975 c 192 s 3; 1978 c 563 s 9,10; 1979 c 184 s 1; 1981 c 224 s 169; 1984 c 564 s 43; 1Sp1985 c 7 s 27; 1986 c 359 s 26; 1986 c 458 s 20; 1987 c 259 s 55; 1989 c 319 art 13 s 90,91; 1991 c 199 art 2 s 24; 1991 c 269 art 3 s 3-19; 1991 c 345 art 4 s 3,4

### **356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.**

(a) The provisions of section 356.215 governing the contents of actuarial valuations shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4g, the appropriate amortization target date specified in section 69.77, subdivision 2b, or 69.773, subdivision 4, clause (c), shall be used in calculating any required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4i, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported;

(4) actuarial valuations required pursuant to section 69.773, subdivision 2, shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually; and

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability shall include the following required reserves:

(a) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(b) For deferred annuitants' benefits

(c) For former members without vested rights

(d) For annuitants

1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

In addition to those required reserves, separate items shall be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above.

(6) actuarial valuations shall be due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

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(b) For a relief association in a city of the first class with a population of more than 300,000, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual pre-retirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

**History:** 1978 c 563 s 11; 1981 c 224 s 170; 1983 c 71 s 2; 1Sp1985 c 7 s 28; 1986 c 359 s 14; 1Sp1986 c 3 art 1 s 46; 1987 c 259 s 56; 1989 c 319 art 19 s 4; 1991 c 199 art 1 s 91

## 356.217 MODIFICATIONS IN ACTUARIAL SERVICES.

(a) The actuary retained by the legislative commission on pensions and retirement is not required to prepare actuarial valuations of the public employees local government correctional employees retirement plan unless the plan is implemented by a county under section 353C.04.

(b) The cost of any requested benefit projections by the commission-retained actuary relating to the Minnesota postretirement investment fund for the state board of investment is payable by the state board of investment.

(c) Actuarial valuations under section 356.215, for July 1, 1991, and thereafter, are not required to have an individual commentary section. The commentary section, if omitted from the individual plan actuarial valuation, must be included in an appropriate generalized format as part of the report to the legislature under section 3.85, subdivision 11.

(d) Actuarial valuations under section 356.215, for July 1, 1991, and thereafter, are not required to contain separate actuarial valuation results for basic and coordinated programs unless each program has a membership of at least ten percent of the total membership of the fund. Actuarial valuations under section 356.215, for July 1, 1991, and thereafter, are not required to contain cash flow forecasts.

(e) Actuarial valuations of the public employees police and fire fund local consolidation accounts for July 1, 1991, and thereafter, are not required to contain separate tabulations or summaries of active member, service retirement, disability retirement, and survivor data for each local consolidation account.

(f) The commission-retained actuary is:

(1) required to publish experience findings for plans for which experience findings are required only on a quadrennial basis for the four-year period ending June 30, 1992, and every four years thereafter;

(2) not required to prepare a separate experience analysis or publish separate experience findings for basic and coordinated programs if separate actuarial valuation results for the programs are not required; and

(3) not required to calculate investment rate of return experience results on any basis other than current asset value as defined in section 356.215, subdivision 1, clause (6).

**History:** 1991 c 269 art 3 s 20

## 356.218 INVESTMENT PERFORMANCE REPORT.

Subdivision 1. **Report required.** (a) Unless paragraph (c) applies, the chief administrative officer of a public pension plan with an associated pension fund or investment fund specified in subdivision 2 shall annually prepare and file an investment perfor-

mance report meeting the contents requirements of subdivision 3. The report must be filed with or distributed as specified in paragraph (b) by April 1 each year and must cover the previous calendar year. The report must be prepared under the supervision or at the direction of the chief administrative officer and must be signed by that officer. The investment performance report is a public record.

(b) A copy of the report or a synopsis of the report must be distributed to each member of the pension plan and must be filed with the chief administrative officer of each employing unit making employer contributions to the pension plan. A copy of the report also must be filed with the executive director of the legislative commission on pensions and retirement.

(c) This section does not apply to the state board of investment. This section also does not apply to a public pension plan if all assets of the pension fund or investment fund attributable to the public pension plan are invested by the state board of investment under chapters 11A and 356A and if the executive director of the state board of investment makes public in an annual report or in other documents the fiscal year investment performance results of the pension fund or investment fund attributable to the pension plan that substantially meet the requirements of subdivision 3 for that fiscal year period.

**Subd. 2. Covered public pension plans.** The provisions of this section apply to any Minnesota public pension plan, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, that has assets with a book value of at least \$500,000 as of the end of the preceding plan year.

**Subd. 3. Contents of the investment performance report.** The investment performance report required by this section must contain the time-weighted total rate of return results for each quarter and annually for each significant asset class or type of investment and for the portfolio as a whole. The time-weighted rate of return results must be computed using market values and the formula or formulas prescribed by the state board of investment under section 11A.04, clause (11). The person performing the calculations shall certify conformance to that formula or those formulas. The investment performance report may also include any additional investment performance or investment related information that the chief administrative officer considers necessary to provide an adequate summary of the performance of the portfolio. The additional information must be clearly indicated as a supplement to the information required by this subdivision. The executive director of the legislative commission on pensions and retirement shall prescribe the forms on which the report must be submitted and may prescribe other directions for submitting the report.

**History:** 1990 c 570 art 2 s 1

### 356.22 INTERPRETATION.

**Subdivision 1.** No provision in sections 356.20 to 356.23 shall be construed to in any way limit any of the enumerated pension and retirement funds from furnishing additional actuarial valuations or experience studies, or data and calculations, as may be requested by the legislature or any standing committee or the legislative commission on pensions and retirement.

**Subd. 2. Accelerated amortization.** No provision in sections 356.20 to 356.23 shall be construed to preclude any public pension and retirement fund enumerated in section 356.20, subdivision 2, from requesting, or the legislature from providing for, the amortization of any unfunded actuarial accrued liability in a shorter period of time than by the established date for full funding as determined pursuant to section 356.215, subdivision 4g.

**Subd. 3.** The legislature or any committee or commission thereof now in existence or hereafter created which has assigned to it the subject of public pensions or public retirement plans may require actuarial valuations and experience studies in conformity with the provisions of sections 356.20 to 356.23 from any public pension and retirement fund, whether enumerated in sections 356.20 to 356.23 or otherwise.

**History:** 1965 c 359 s 3; 1975 c 192 s 4,5; 1979 c 184 s 2; 1981 c 224 s 171; 1Sp1985 c 7 s 35; 1987 c 259 s 57

**356.23 SUPPLEMENTAL VALUATIONS; ALTERNATIVE REPORTS AND VALUATIONS.**

**Subdivision 1. Supplemental actuarial valuations.** Any supplemental actuarial valuations prepared on behalf of any governing or managing board of any pension and retirement fund enumerated in section 356.20, subdivision 2, by an approved actuary, shall be prepared in accordance with the applicable provisions of sections 356.20 to 356.23 and the standards adopted by the legislative commission on pensions and retirement. Any pension and retirement fund which prepares an alternative actuarial valuation under subdivision 2 shall also have a supplemental actuarial valuation prepared.

**Subd. 2. Alternative reports and valuations.** In addition to the financial reports and actuarial valuations required by sections 356.20 to 356.23, the governing or managing board of any fund concerned may submit alternative reports and valuations for distribution to the legislature, any of its committees, or the legislative commission on pensions and retirement on a different basis or on different assumptions than are specified in sections 356.20 to 356.23. The assumptions and basis of any alternative reports and valuations shall be clearly stated in the document.

**History:** 1965 c 359 s 4; 1971 c 7 s 7; 1975 c 192 s 6; 1984 c 655 art 1 s 59; 1987 c 259 s 58

**356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.**

**Subdivision 1. Restriction; exceptions.** (a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.04;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(4) for employees other than personnel employed by the state university board or the community college board and covered by section 354B.07, subdivision 1, to:

(i) the state of Minnesota deferred compensation plan under section 352.96; or

(ii) payment of the applicable portion of the premium on a tax sheltered annuity contract qualified under section 403(b) of the federal Internal Revenue Code, purchased from a qualified insurance company; if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community college board and covered by section 354B.07, subdivision 1, to the supplemental retirement plan under sections 354B.07 to 354B.09, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.

(b) A qualified insurance company is a company that:

(1) meets the definition in section 60A.02, subdivision 4;

(2) is licensed to engage in life insurance or annuity business in the state;

(3) is determined by the commissioner of commerce to have a rating within the

top two rating categories by a recognized national rating agency or organization that regularly rates insurance companies; and

(4) is determined by the state board of investment to be among the ten applicant insurance companies with competitive options and investment returns on annuity products. The state board of investment determination must be made on or before January 1, 1993, and must be reviewed periodically. The state board of investment shall retain actuarial services to assist it in this determination. The state board of investment shall establish a budget for its costs in the determination process and shall charge a proportional share of that budget to each insurance company selected by the state board of investment. All contracts must be approved before execution by the state board of investment. The state board of investment shall establish policies and procedures under section 11A.04, clause (2), to carry out this paragraph.

(c) A personnel policy for unrepresented employees or a collective bargaining agreement may establish limits on the number of vendors under paragraph (b), clause (4), that it will utilize and conditions under which the vendors may contact employees both during working hours and after working hours.

Subd. 2. **Limit on certain contributions or benefit changes.** No change in benefits or employer contributions in a supplemental pension plan to which this section applies after May 6, 1971, is effective without prior legislative authorization.

**History:** 1971 c 222 s 1; 1980 c 600 s 7; 1981 c 224 s 172; 1988 c 605 s 9; 1988 c 709 art 11 s 6; 1989 c 319 art 12 s 3; 1992 c 464 art 1 s 42; 1992 c 487 s 4

### 356.245 LOCAL ELECTED OFFICIALS.

An elected official covered by section 353.01, subdivision 2a, is eligible to participate in the state of Minnesota deferred compensation plan under section 356.24. A local governmental unit may make the matching employer contributions authorized by that section on the part of a participating elected official.

**History:** 1988 c 709 art 9 s 3

### 356.25 LOCAL GOVERNMENTAL PENSION FUND PROHIBITIONS; EXCLUSIONS.

Notwithstanding any other provision of law or charter, no city, county, public agency or instrumentality, or other political subdivision shall, after August 1, 1975, establish for any of its employees any local pension plan or fund financed in whole or in part from public funds, other than a volunteer firefighter's relief association established pursuant to chapter 424A and governed by sections 69.771 to 69.776.

**History:** 1975 c 405 s 1; 1977 c 429 s 63; 1981 c 224 s 173; 1984 c 655 art 1 s 60

### 356.26 MS 1975 Supp [Repealed, 1976 c 129 s 1]

### 356.30 COMBINED SERVICE ANNUITY.

Subdivision 1. **Eligibility; computation of annuity.** (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause (2) may elect to receive a retirement annuity from each fund in which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement a retirement annuity from each fund in which the person has at least six months allowable service, and augmentation of a deferred annuity calculated under the laws governing each public pension plan or fund named in subdivision 3, from the date the person terminated all public service if:

(a) the person has allowable service totaling an amount that allows the person to receive an annuity in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within a six-month period.

(3) The retirement annuity from each fund must be based upon the allowable service in each fund, except that:

(a) The laws governing annuities must be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund must be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds must be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

(e) The benefit amount payable for any allowable service under a nonformula plan of a covered fund must not be affected but such service and covered salary must be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund must not exceed 2-1/2 percent per year of service for any year of service or fraction thereof.

(h) Any period of time for which a person has credit in more than one of the covered funds must be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit must be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

**Subd. 2. Repayment of refunds.** A person who has service credit in one of the funds enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these funds but also has received a refund from any other of these funds, may repay the refund to the respective fund under terms and conditions that are consistent with the laws governing the other fund, except that the person need not be a currently contributing member of the fund to which the refund is repaid at the time the repayment is made. Unless otherwise provided by statute, the repayment of a refund under this subdivision may only be made within six months following termination of employment from a position covered by one of the funds enumerated in subdivision 3 or before the date of retirement from the fund to which the refund is repaid, whichever is earlier.

**Subd. 2a. Purchases of prior service.** If a purchase of prior service is made under the provisions of Laws 1988, chapter 709, article 3, or any similar provision which allows a purchase of service credit in any of the funds enumerated in subdivision 3, the amount of required reserves calculated as prescribed in Laws 1988, chapter 709, article 3, must be paid to each fund based on the amount of benefit increase payable from that fund as a result of the purchase of prior service.

**Subd. 3. Covered funds.** This section applies to the following retirement funds:

- (1) state employees retirement fund, established pursuant to chapter 352;
- (2) correctional employees retirement program, established pursuant to chapter 352;
- (3) unclassified employees retirement plan, established pursuant to chapter 352D;
- (4) state patrol retirement fund, established pursuant to chapter 352B;
- (5) legislators' retirement plan, established pursuant to chapter 3A;
- (6) elective state officers' retirement plan, established pursuant to chapter 352C;
- (7) public employees retirement association, established pursuant to chapter 353;
- (8) public employees police and fire fund, established pursuant to chapter 353;
- (9) teachers retirement fund, established pursuant to chapter 354;
- (10) Minneapolis employees retirement fund, established pursuant to chapter 422A;
- (11) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;
- (12) St. Paul teachers retirement fund association, established pursuant to chapter 354A;
- (13) Duluth teachers retirement fund association, established pursuant to chapter 354A;
- (14) public employees local government correctional service retirement plan established by sections 353C.01 to 353C.10; and
- (15) judges' retirement fund, established by sections 490.121 to 490.132.

**History:** 1975 c 232 s 1; 1981 c 37 s 2; 1981 c 298 s 11; 1983 c 286 s 14; 1986 c 444; 1987 c 372 art 1 s 20; art 9 s 35; 1989 c 319 art 2 s 23; art 5 s 4; art 13 s 92; 1991 c 340 s 31; 1992 c 432 art 2 s 45

**356.301** [Repealed, 1987 c 284 art 8 s 3]

### COMBINED SERVICE DISABILITY AND SURVIVOR BENEFITS

#### 356.302 DISABILITY BENEFIT WITH COMBINED SERVICE.

Subdivision 1. **Definitions.** (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a disability benefit by the covered retirement plan and that is drawn from any period of credited service and successive years of covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 7.

(d) "Duty-related" means a disabling illness or injury that occurred while the person was actively engaged in employment duties or that arose out of the person's active employment duties.

(e) "General employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (1) to (8).

(f) "Occupationally disabled" means having a medically determinable physical or mental impairment that makes a person unable to satisfactorily perform the minimum requirements of the person's employment position or a substantially similar employment position.

(g) "Public safety employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (9) to (11).

(h) "Totally and permanently disabled" means having a medically determinable physical or mental impairment that makes a person unable to engage in any substantial gainful activity and that is expected to continue or has continued for a period of at least one year or that is expected to result directly in the person's death.



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**Subd. 2. Entitlement.** Notwithstanding any law to the contrary governing any covered retirement plan, a member of a covered retirement plan may receive a combined service disability benefit from each covered retirement plan in which the person has credit for at least six months of allowable service if that person meets the applicable qualifying conditions. Subdivision 3 applies to a member of a general employee retirement plan. Subdivision 4 applies to a member of a public safety employee retirement plan. Subdivision 5 applies to a member of a covered retirement plan with general employee and public safety employee retirement plan service.

**Subd. 3. General employee plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

- (1) is less than 65 years of age on the date of application for the disability benefit;
- (2) has become totally and permanently disabled;
- (3) has credit for allowable service in any combination of general employee retirement plans totaling at least three years;
- (4) has credit for at least six months of allowable service with the current general employee retirement plan before the commencement of the disability;
- (5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and
- (6) is not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

**Subd. 4. Public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

- (1) is less than 55 years old on the date of application for the disability benefit;
- (2) has become occupationally disabled;
- (3) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least three years if the disability is not duty-related;
- (4) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and
- (5) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

**Subd. 5. General and public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of both public safety employee retirement plans and general employee retirement plans must meet the qualifying requirements in subdivisions 3 and 4 to receive a combined service disability benefit from the applicable general employee and public safety employee retirement plans, except that the person need only be a member of a covered retirement plan at the time of the commencement of the disability and that the minimum allowable service requirements of subdivisions 3, clauses (3) and (5), and 4, clauses (3) and (4), may be met in any combination of covered retirement plans.

**Subd. 6. Combined service disability benefit computation.** (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled under section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

**Subd. 7. Covered retirement plans.** This section applies to the following retirement plans:

- (1) state employees retirement fund, established by chapter 352;
- (2) unclassified employees retirement plan, established by chapter 352D;
- (3) public employees retirement association, established by chapter 353;
- (4) teachers retirement fund, established by chapter 354;
- (5) Duluth teachers retirement fund association, established by chapter 354A;
- (6) Minneapolis teachers retirement fund association, established by chapter 354A;
- (7) St. Paul teachers retirement fund association, established by chapter 354A;
- (8) Minneapolis employees retirement fund, established by chapter 422A;
- (9) correctional employees retirement plan, established by chapter 352;
- (10) state patrol retirement fund, established by chapter 352B;
- (11) public employees police and fire fund, established by chapter 353; and
- (12) judges' retirement fund, established by sections 490.121 to 490.132.

**History:** 1987 c 284 art 8 s 1; 1988 c 709 art 5 s 39,40; 1989 c 319 art 5 s 5; 1990 c 570 art 12 s 56,57; 1992 c 432 art 2 s 46

### **356.303 SURVIVOR BENEFIT WITH COMBINED SERVICE.**

**Subdivision 1. Definitions.** (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a survivor annuity or a survivor benefit, whichever applies, by the covered retirement plan and that is drawn from any period of credited service and covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 4.

(d) "Deceased member" means a person who on the date of death was an active member of a covered retirement plan and who has reached the minimum age, if any, required by the covered retirement plan as part of qualifying for a survivor annuity or survivor benefit.

(e) "Surviving child" means a child of a deceased member (1) who is unmarried, (2) who has not reached age 18, or, if a full-time student, who has not reached a higher age specified in the applicable covered retirement plan, and (3) if specified by that plan, who was actually dependent on the deceased member for a specified proportion of support before the deceased member's death. "Surviving child" includes a natural child, an adopted child, or a child of a deceased member who is conceived during the member's lifetime and is born after the member's death.

(f) "Surviving spouse" means the legally married husband or wife of the deceased member who was residing with the deceased member on the date of death and who, if specified by the applicable covered retirement plan, had been married to the deceased member for a specified period of time before the death of the deceased member.

(g) "Survivor annuity" means the entitlement to a future amount payable to a survivor as the remainder interest of an optional annuity form implied by law as having been chosen by a deceased member before the date of death and effective on the date of death or provided automatically.

(h) "Survivor benefit" means an entitlement to a future amount payable to a survivor that is not included in the definition of a survivor annuity.

**Subd. 2. Entitlement; eligibility.** Notwithstanding any law to the contrary governing a covered retirement plan, a person who is the survivor of a deceased member of a covered retirement plan may receive a combined service survivor benefit from each covered retirement plan in which the deceased member had credit for at least six months of allowable service if the deceased member:

(1) had credit for sufficient allowable service in any combination of covered retirement plans to meet any minimum allowable service credit requirement of the covered retirement fund for qualification for a survivor benefit or annuity;

(2) had credit for at least six months of allowable service with the most recent covered retirement plan before the date of death and was an active member of that covered retirement plan on the date of death; and

(3) was not receiving a retirement annuity from any covered retirement plan on the date of death.

**Subd. 3. Combined service survivor benefit computation.** (a) The combined service survivor annuity or survivor benefit from each covered retirement plan must be based on the allowable service in each covered retirement plan, except as provided by paragraphs (b) to (f).

(b) The survivor annuity or survivor benefit must be governed by the law in effect for each covered retirement plan on the date of death of the deceased member.

(c) All plans must base the survivor annuity or survivor benefit on the same average salary.

(d) If the method of the covered retirement plan used to compute a survivor benefit or annuity varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a survivor benefit or annuity does not vary based on the length of allowable service credit, the portion of the specified benefit or annuity amount from the plan must bear the same proportion to the total specified benefit or annuity amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the survivor benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service survivor annuity or survivor benefit. A period of duplicated service credit must be handled as provided in section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from a public pension plan named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

**Subd. 4. Covered retirement plans.** This section applies to the following retirement plans:

- (1) legislators retirement plan, established by chapter 3A;
- (2) state employees retirement fund, established by chapter 352;
- (3) correctional employees retirement plan, established by chapter 352;
- (4) state patrol retirement fund, established by chapter 352B;
- (5) elective state officers retirement plan, established by chapter 352C;
- (6) unclassified employees retirement plan, established by chapter 352D;
- (7) public employees retirement association, established by chapter 353;
- (8) public employees police and fire fund, established by chapter 353;
- (9) teachers retirement fund, established by chapter 354;
- (10) Duluth teachers retirement fund association, established by chapter 354A;
- (11) Minneapolis teachers retirement fund association, established by chapter 354A;
- (12) St. Paul teachers retirement fund association, established by chapter 354A;
- (13) Minneapolis employees retirement fund, established by chapter 422A; and
- (14) judges' retirement fund, established by sections 490.121 to 490.132.

**History:** 1987 c 284 art 8 s 2; 1989 c 319 art 5 s 6; 1992 c 432 art 2 s 47

### 356.31 RESTORATION OF SURVIVOR BENEFITS.

**Subdivision 1. Restoration upon termination of remarriage.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds enumerated in subdivision 2, any person who was receiving a surviving spouse's benefit from any of such funds and whose benefit terminated solely because of remarriage shall, if the remarriage terminates for any reason, again be entitled upon reapplication to a surviving spouse's benefit; provided, however, that such person shall not be entitled to retroactive payments for the period of remarriage. The benefit shall resume at the level which such person would have been receiving if there had been no remarriage. This section shall apply prospectively to any person who first becomes entitled to receive a surviving spouse's benefit on or after May 18, 1975, and shall also apply retroactively to any person who first became entitled to receive a surviving spouse's benefit before May 18, 1975; provided, however, that no such person shall be entitled to retroactive payments for any period of time prior to May 18, 1975.

**Subd. 2. Covered funds.** The provisions of this section shall apply to the following retirement funds:

- (1) Public employees retirement fund, established pursuant to chapter 353;
- (2) Public employees police and fire fund, established pursuant to chapter 353;
- (3) State patrol retirement fund, established pursuant to chapter 352B;
- (4) Legislators' retirement plan, established pursuant to chapter 3A;
- (5) Elective state officers retirement plan, established pursuant to chapter 352C;
- (6) Teachers retirement fund, established pursuant to chapter 354;
- (7) Minneapolis employees retirement fund, established pursuant to chapter 422A.

**History:** 1975 c 183 s 1; 1981 c 37 s 2; 1981 c 298 s 11

**356.32 PROPORTIONATE ANNUITY AT AGE 65.**

Subdivision 1. **Proportionate retirement annuity.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is an active member of any applicable fund, who has credit for at least one year but less than ten years of allowable service in one or more of the applicable funds, and who terminates active service pursuant to a mandatory retirement law or policy or at age 65 or older, or the normal retirement age if this age is not age 65, for any reason shall be entitled upon making written application on the form prescribed by executive director or executive secretary of the fund to a proportionate retirement annuity from each applicable fund in which the person has allowable service credit. The proportionate annuity shall be calculated under the applicable laws governing annuities based upon allowable service credit at the time of retirement and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years. Nothing in this section shall prevent the imposition of the appropriate early retirement reduction of an annuity which commences prior to normal retirement age.

Subd. 2. **Covered funds.** The provisions of this section shall apply to the following retirement funds:

- (1) state employees retirement fund, established pursuant to chapter 352;
- (2) correctional employees retirement program, established pursuant to chapter 352;
- (3) state patrol retirement fund, established pursuant to chapter 352B;
- (4) public employees retirement fund, established pursuant to chapter 353;
- (5) public employees police and fire fund, established pursuant to chapter 353;
- (6) teachers retirement fund, established pursuant to chapter 354;
- (7) Minneapolis employees retirement fund, established pursuant to chapter 422A;
- (8) Duluth teachers retirement fund association, established pursuant to chapter 354A;
- (9) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;
- (10) St. Paul teachers retirement fund association, established pursuant to chapter 354A;
- (11) public employees local government correctional service retirement plan established by sections 353B.01 to 353B.10.

**History:** 1975 c 183 s 2; 1976 c 130 s 1; 1978 c 649 s 3; 1978 c 796 s 44; 1979 c 40 s 10; 1979 c 217 s 27; 1980 c 342 s 15; 1981 c 37 s 2; 1981 c 224 s 174; 1981 c 298 s 11; 1987 c 372 art 1 s 21; 1989 c 319 art 13 s 93

**356.325 HENNEPIN COUNTY; CERTAIN EMPLOYEES; PROPORTIONATE ANNUITIES.**

Employees and former employees of Hennepin county who were members of the public employees retirement association on May 1, 1975 and have at least three years but less than ten years of allowable service in such fund, or a combination of such fund and funds listed in Minnesota Statutes 1975 Supplement, section 356.32, subdivision 2, shall be entitled to proportionate annuities under Minnesota Statutes 1975 Supplement, Section 356.32, even if they are over 65 years of age. With respect to such persons who are over 65 years of age and whose public service terminated between May 1, 1975 and April 21, 1976, proportionate annuity payments may be made retroactive to January 1, 1976 or the date of termination of public service, whichever is later.

**History:** 1976 c 329 s 3

**356.34 [Repealed, 1978 c 781 s 13]**

**356.35 DEFINITIONS.**

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purpose of Laws 1976, chapter 326, shall have the meanings subjoined to them.

Subd. 2. "Determinant date" means June 1, 1973, with respect to the state patrol retirement fund; June 27, 1973, with respect to permanent disability benefits, retirement annuities, and retirement allowance options II, III and IV paid to surviving spouses pursuant to Minnesota Statutes 1971, Section 422.08 provided by the Minneapolis employees retirement fund; April 25, 1959, with respect to survivor benefits paid to surviving spouses of contributing members provided by the Minneapolis employees retirement fund; January 1, 1970, with respect to the St. Paul teachers retirement fund; July 1, 1971, with respect to the Duluth teachers retirement fund; and July 1, 1973, with respect to all other covered retirement funds.

Subd. 3. "Plan participant" means the person receiving the permanent disability benefit or retirement annuity with respect to disabilitants and retired members of a covered fund; and the deceased member or deceased retired member on behalf of whom the survivor benefit or annuity is being paid with respect to surviving beneficiaries of a covered fund.

Subd. 4. "Years of retirement" means the number of years which have elapsed between:

(1) June 30 of the calendar year in which the earliest applicable event among the following occurred;

- (a) the commencement of the plan participant's permanent disability benefit,
- (b) the commencement of the plan participant's retirement annuity, or
- (c) the death of the plan participant, and

(2) July 1, 1976.

Subd. 5. "Covered retirement fund" means:

- (1) the state patrol retirement fund;
- (2) the public employees police and fire fund;
- (3) the public employees retirement fund;
- (4) the state employees retirement fund;
- (5) the teachers retirement fund;
- (6) the Minneapolis employees retirement fund;
- (7) the legislators' retirement plan;
- (8) the St. Paul teachers retirement fund; or
- (9) the Duluth teachers retirement fund.

**History:** 1976 c 326 s 1; 1981 c 37 s 2; 1981 c 298 s 11

**356.36 PERMANENT DISABILITY BENEFITS AND RETIREMENT ANNUITIES; INCREASE; EXCEPTIONS.**

Subdivision 1. Except as provided in section 356.38, any plan participant who began receiving a permanent disability benefit or a retirement annuity prior to the determinant date and is receiving a permanent disability benefit or a retirement annuity based on laws in effect prior to such date from a covered retirement fund or any combination of such funds shall receive, beginning with the first monthly benefit or annuity accruing after June 30, 1976, an increase in the benefit or annuity from each such fund as provided in subdivisions 2 and 3. Provided however, that no plan participant who is receiving a permanent disability benefit or a retirement annuity from the Minneapolis employees retirement fund in excess of \$300 per month shall be entitled to an increase in such benefit or annuity pursuant to Laws 1976, chapter 326. Provided further, that no plan participant who is less than 70 years of age and is receiving a permanent disability benefit or a retirement annuity from the St. Paul teachers retirement fund shall be entitled to an increase in the benefit or annuity pursuant to Laws 1976, chapter 326 until the plan participant attains the age of 70 years.

Subd. 2. In the case of permanent disability benefits and retirement annuities computed under the provisions of a "basic" retirement program, there shall be:

- (1) a \$4.50 increase in annual payments for each full year of allowable service earned by the plan participant in the respective covered retirement fund; and
- (2) a \$9 increase in annual payments for each year of retirement.

Subd. 3. In the case of permanent disability benefits and retirement annuities computed under the provisions of a "coordinated" retirement program, there shall be:

- (1) a \$1.20 increase in annual payments for each full year of allowable service earned by the plan participant in the respective retirement fund; and
- (2) a \$2.40 increase in annual payments for each year of retirement.

Subd. 4. In the case of a retirement annuity which is increased pursuant to this section and which may become payable to a surviving beneficiary after the death of the plan participant, the survivor annuity ultimately payable in such event shall include only one-half the increase paid to the plan participant pursuant to this section.

**History:** 1976 c 326 s 2; 1981 c 298 s 11

### **356.37 SURVIVOR BENEFITS; INCREASE; EXCEPTIONS.**

Subdivision 1. Except as provided in section 356.38, any person who is receiving a survivor benefit or survivor annuity based on laws in effect prior to the determinant date and is the surviving spouse of a plan participant who died or retired prior to such date; and any person who is receiving a survivor annuity based on laws in effect prior to the determinat date and is the named beneficiary of a plan participant who died or retired prior to such date; and any person who is receiving any combination of such benefits and annuities from a covered retirement fund or any combination of such funds shall receive, beginning with the first monthly benefit or annuity accruing after June 30, 1976, an increase in each such benefit or annuity as provided in subdivisions 2 and 3. Provided however, that no surviving spouse who is receiving an option II, III or IV survivor retirement allowance pursuant to Minnesota Statutes 1971, Section 422.08 provided by the Minneapolis employees retirement fund shall be entitled to an increase in such annuity pursuant to Laws 1976, chapter 326 if the retirement annuity which was paid or payable to the plan participant was in excess of \$300 per month.

Subd. 2. In the case of survivor benefits and annuities computed under the provisions of a "basic" retirement program, there shall be:

- (1) a \$2.25 increase in annual payments for each full year of allowable service earned by the plan participant in the respective covered retirement fund; and
- (2) a \$4.50 increase in annual payments for each year of retirement.

Subd. 3. In the case of survivor benefits and annuities computed under the provisions of a "coordinated" retirement program, there shall be:

- (1) a \$.60 increase in annual payments for each full year of allowable service earned by the plan participant in the respective retirement fund; and
- (2) a \$1.20 increase in annual payments for each year of retirement.

**History:** 1976 c 326 s 3; 1981 c 298 s 11

### **356.371 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE FOR ELECTING ANNUITY FORM.**

Subdivision 1. **Definitions.** As used in this section, the following terms shall have the meanings given.

- (1) "Annuity form" means the payment procedure and duration of a retirement annuity or disability benefit available to a member of a public pension fund, based on the period over which a retirement annuity or disability benefit is payable, determined by the number of persons to whom the retirement annuity or disability benefit is payable, and the amount of the retirement annuity or disability benefit which is payable to each person.

(2) "Joint and survivor optional annuity" means an optional annuity form which provides a retirement annuity or disability benefit to a retired member and the spouse of the member on a joint basis during the lifetime of the retired member and all or a portion of the original retirement annuity or disability benefit amount to the surviving spouse in the event of the death of the retired member.

(3) "Optional annuity form" means an annuity form which is elected by a member and is not provided automatically as the standard annuity form of the public pension fund.

(4) "Public pension fund" means a public pension plan as defined pursuant to section 356.61.

(5) "Retirement annuity" means a series of monthly payments to which a former or retired member of a public pension fund is entitled on account of attaining a specified age and acquiring credit for a specified period of service, which shall include a retirement annuity, retirement allowance or service pension.

(6) "Disability benefit" means a series of monthly payments to which a former or disabled member of a public pension fund is entitled on account of a physical or mental inability to engage in specified employment.

**Subd. 2. Provision of information on annuity forms.** Every public pension fund which provides for an annuity form other than a single life retirement annuity as an option which can be elected by an active, disabled or retiring member shall provide as a part of, or accompanying the annuity application form, a written statement summarizing the optional annuity forms which are available, a general indication of the consequences of selecting one annuity form over another, a calculation of the actuarial reduction in the amount of the retirement annuity which would be required for each optional annuity form and the procedure to be followed to obtain more information from the public pension fund concerning the optional annuity forms provided by the fund.

**Subd. 3. Requirement of notice to member's spouse.** If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the executive director of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

Following the election of a retirement annuity by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, must be sent by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form unless the spouse's signature confirming the receipt is on the annuity application form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, to the spouse by certified mail with restricted delivery.

**History:** 1981 c 68 s 29; 1981 c 156 s 6; 1982 c 578 art 3 s 9,10; 1987 c 384 art 2 s 1; 1989 c 319 art 2 s 24; 1990 c 570 art 12 s 58; 1991 c 341 s 44

### **356.38 MULTIPLE BENEFITS AND ANNUITIES; LIMITATION ON INCREASES.**

Any person who is receiving more than one benefit or annuity to which the increases in sections 356.36 and 356.37 apply shall not receive an increase based on years of retirement for each benefit or annuity but shall receive the increase based on years of retirement only for the benefit or annuity which will result in the largest such increase.

**History:** 1976 c 326 s 4



**356.39 BASIS FOR SUBSEQUENT POST RETIREMENT ADJUSTMENTS.**

The increased benefit amounts pursuant to sections 356.35 to 356.39 shall be considered the base annuity or benefit amount for the purpose of further adjustments pursuant to section 11A.18.

*History:* 1976 c 326 s 6; 1980 c 607 art 14 s 45 subd 2; s 46; 1981 c 224 s 175

**356.40 DATE FOR PAYMENT OF ANNUITIES AND BENEFITS.**

Notwithstanding any law to the contrary, all annuities and benefits payable on and after December 1, 1977 by a covered retirement fund, as defined in section 356.30, subdivision 3, shall be paid in advance for each month during the first week of that month. Bylaws of municipal retirement funds shall be amended accordingly. In no event, however, shall this section authorize more than one payment in any one month where the law governing the applicable retirement fund as of June 30, 1977 already provides for the full payment or accrual of annuities and benefits in advance for each month or as of the first day of the month, nor shall it authorize the payment of both a retirement annuity and a surviving spouse's benefit in one month where the law governing the applicable retirement fund provides for the payment of the retired member's retirement annuity to the surviving spouse for the month in which the retired member dies.

*History:* 1977 c 388 s 3

**356.41 BENEFIT ADJUSTMENTS FOR CERTAIN DISABILITY AND SURVIVOR BENEFITS.**

Disability benefits payable to a disabilitant, if not otherwise included in the participation in the Minnesota postretirement investment fund, and survivor benefits payable to a survivor from any public pension fund which participates in the Minnesota postretirement investment fund shall be adjusted in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to eligible benefit recipients of that public pension fund. If a disability benefit is not included in the participation in the Minnesota postretirement investment fund, the disability benefit is recomputed as a retirement annuity and the recipient would have been eligible for an adjustment pursuant to this section if the disability benefit was not recomputed, the recipient will continue to be eligible for the adjustment pursuant to this section after the recomputation. For the survivor of a deceased annuitant who receives a survivor benefit calculated pursuant to a prior law rather than the second portion of a joint and survivor annuity, any period of receipt of a retirement annuity by the annuitant shall be utilized in determining the period of receipt for eligibility to receive an adjustment pursuant to this section. No recipient shall, however, be entitled to more than one adjustment pursuant to this section or section 11A.18 applicable to one benefit at one time by reason of this section.

*History:* 1978 c 665 s 1; 1980 c 607 art 14 s 45 subd 2; 1982 c 578 art 3 s 11; 1987 c 259 s 59

**356.45 MEMBERSHIP OF CERTAIN PERSONS IN VARIOUS RETIREMENT FUNDS OR PLANS.**

**Subdivision 1. Exclusion of certain employees in certain federal programs.** No 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 shall be included as a member of a public retirement fund, unless the person is employed by an employer where public retirement coverage is to be provided by a covered fund enumerated in section 356.451, subdivision 2, and the city council of the city of Minneapolis specifies that the person is to be considered as a provisional member of the relief association pursuant to section 356.451, or unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit under the provisions of the plan to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees

in writing to make the total required employer contributions, including any employer additional contribution, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing to make the required employer contributions in addition to any required employee contribution.

**Subd. 2. Covered funds.** The provisions of this section shall apply to the following retirement funds or plans:

- (1) University of Minnesota faculty retirement plan;
- (2) University of Minnesota faculty supplemental retirement plan;
- (3) any municipal retirement fund or plan providing pension or retirement coverage for police officers or paid firefighters which was established and is governed in whole or in part by special legislation;
- (4) any retirement fund or plan established, maintained, or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources which provides pension or retirement coverage for public employees, other than police officers or paid firefighters, who are not covered by a retirement fund enumerated in section 356.30, subdivision 3; or
- (5) any supplemental retirement plan established, maintained, or supported by any government subdivision or public body whose revenues are derived from taxation, fees, assessments or other public sources.

**History:** 1978 c 720 s 10; 1981 c 224 s 176

#### **356.451 PROVISIONAL MEMBERSHIP FOR CERTAIN PERSONS IN VARIOUS RETIREMENT FUNDS OR PLANS.**

**Subdivision 1. Reserve account for provisional members; authorization.** Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 2, any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act, who does not have as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred annuity, who otherwise meets all of the applicable eligibility requirements of the fund and who is designated as such by the city council of the city of Minneapolis or the board of education of special school district No. 1, whichever is applicable, shall be considered a provisional member of the fund. There shall be established a subsidiary reserve account for provisional members which shall be managed by the board of trustees of the fund as a separate account and which shall not be considered as an asset or a liability of the fund. To this account shall be credited all employee and required employer contributions made by or on account of provisional members. A separate record for each provisional member shall be maintained showing the length of service completed, the accrued employee and required employer contributions made by or on account of each provisional member, and the actual rate of interest earned on the assets of the account. The assets of the separate account shall be invested in the same manner as and subject to the same limitations as are applicable to the general assets of the retirement fund. The board of trustees shall remit back to the prime sponsor of the federal Comprehensive Employment and Training Act program periodically as required by the applicable federal regulation an amount equal to the total required employer contributions made on account of provisional members who terminate or who are terminated from subsidized on-the-job training, work experience or public service employment without obtaining unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or without obtaining sufficient service credit to become entitled to a deferred retirement annuity had they been regular members of that retirement fund during the period of their provisional membership, plus interest at the rate or rates actually earned and in addition any amounts which exceed the funds required to cover

current provisional members as projected by the board of trustees. Any provisional member who terminates or is terminated from subsidized on-the-job training, work experience, or public service employment without obtaining unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or without obtaining sufficient service to become entitled to a deferred retirement annuity had the provisional member been a regular member of the retirement fund during the period of provisional membership shall be entitled upon making valid written application to a refund of all employee contributions credited to the member in the subsidiary reserve account for provisional members, plus interest at the average actual rate of interest earned on the assets of the account, but not to exceed the rate of 3-1/2 percent per annum compounded annually from the date of commencement of provisional membership, computed to the first day of the month in which the refund is processed, and based on fiscal year balances. If the provisional member obtains unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or obtains sufficient service to become entitled to a deferred retirement annuity had the period of provisional membership been as a regular member, the board of trustees shall transfer the total employee and required employer contributions and any interest attributable to those contributions to the regular retirement fund and shall credit the period of service as a provisional member as allowable or formula service. Unless the provisional member becomes a regular member of that retirement fund or a retirement fund enumerated in section 356.30, subdivision 3, within the time period allowed under the applicable federal regulations following the person's termination of provisional status, no period of provisional membership shall be considered allowable service for purposes of the combined service annuity pursuant to section 356.30 or any service in more than one retirement fund provision. For any former provisional member who becomes a regular member of a retirement fund enumerated in section 356.30, subdivision 3, the board of trustees shall require written certification of the fact of unsubsidized employment from the subsequent employer and of the fact of regular fund membership from the subsequent retirement fund. If any provisional member obtains service in an amount sufficient to entitle the provisional member to a disability benefit or the provisional member's survivor to a survivor's benefit had the provisional member been a regular member for that period of service, then the provisional member or the provisional member's survivor shall be entitled to a benefit when otherwise qualified notwithstanding the fact that the person was a provisional member. Upon the commencement of the benefit, an amount equal to the contributions and interest credited to the provisional member shall be transferred from the reserve account for provisional members to the regular fund.

**Subd. 2. Covered funds.** Subdivision 1 applies to the following funds:

- (1) Minneapolis employees retirement fund established pursuant to chapter 422A;
- (2) Minneapolis firefighters relief association established pursuant to chapter 69;
- (3) Minneapolis police relief association established pursuant to Laws 1949, chapter 406, as amended;
- (4) Any plan covering employees of the housing and redevelopment agency of the city of Minneapolis as established by law, ordinance, or otherwise;
- (5) Minneapolis teachers retirement fund association established pursuant to chapter 354A.

**History:** 1978 c 720 s 11; 1981 c 298 s 11; 1Sp1985 c 7 s 35; 1986 c 444; 1987 c 259 s 60

### **356.452 REFUND.**

Any person who is a member of any public pension plan or fund to which the provisions of Laws 1978, chapter 720 apply on March 30, 1978 and who is excluded from that membership pursuant to Laws 1978, chapter 720 shall be entitled, upon making

a valid application, to a refund of the accumulated employee or member contributions to the person's credit for the period of employment in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act plus interest at the rate of 3-1/2 percent per annum compounded annually from the date of commencement of coverage by the pension plan or fund, computed to the first day of the month in which the refund is processed, and based on the fiscal year balances. The refund shall be made without any requirement that the person terminate service prior to becoming eligible to receive the refund and shall be made without any minimum waiting period provided for in the provisions of the plan. Notwithstanding any law to the contrary, a refund taken under this section may be repaid to the fund from which it was taken at the fund's applicable rate of interest after attaining unsubsidized public employment with public pension plan or fund coverage and while so employed prior to retirement whether with the same public employer which provided the subsidized employment or another public employer.

**History:** 1978 c 720 s 20

### **356.453 PURCHASE OF PRIOR SERVICE.**

Any person who is excluded from pension coverage pursuant to the provisions of Laws 1978, chapter 720, but who subsequently becomes employed in unsubsidized public employment with public pension plan or fund coverage, whether with the same public employer which provided the subsidized employment or another public employer, shall be entitled to purchase service credit for that period of prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund pursuant to section 356.452 is made, with the public pension plan or fund which, except for the exclusion provided for by Laws 1978, chapter 720, would have provided pension coverage for the subsidized employment. Payment shall include all employee and employer contributions at the rates and on the salary in effect when the subsidized employment was rendered plus interest at the rate of six percent per annum compounded annually from the year purchased to the date payment is made; provided, however, that the employer for the unsubsidized employment, the employer for the subsidized employment, or the applicable federal Comprehensive Employment and Training Act prime sponsor from funds provided under the federal Comprehensive Employment and Training Act, as funds permit, may pay the employer contribution and the employer additional contribution, if any, plus interest at the specified rate. The public employer which provided the subsidized employment shall provide whatever documentation of periods of subsidized public employment and the salary received that the pension plan or fund shall require. Payment shall be made in one lump sum by the date of retirement and no service credit with respect to the payment shall be granted until payment is received by the pension plan or fund.

**History:** 1978 c 720 s 21

### **356.454 INTENT AND INTERPRETATION OF EXCLUSION.**

The exclusion from pension or retirement fund coverage provided for by Laws 1978, chapter 720 is intended to comply with the minimum requirements of the amended federal regulations governing the Comprehensive Employment and Training Act of 1973, as amended by the Emergency Jobs Program Extension Act of 1976, Code of Federal Regulations, title 29, section 98.25, effective June 13, 1977 for authorized expenditures after October 1, 1977. Any administrative or judicial interpretation of the exclusion provided for by Laws 1978, chapter 720 shall limit the extension of this exclusion to the minimum requirements of the amended federal regulation.

**History:** 1978 c 720 s 22

### **356.455 CORRECTION OF ERRONEOUS INTERPRETATION OF EXCLUSION OF CERTAIN EMPLOYEES IN CERTAIN FEDERAL PROGRAMS.**

The employment of a person as an enrollee under the federal Comprehensive Employment and Training Act in a subsidized on-the-job training, work experience or

public service employment position shall not be deemed to be two employments for purposes of implementing the exclusion from retirement fund coverage provided for in Laws 1978, chapter 720, even though the compensation for the person is paid in part from federal Comprehensive Employment and Training Act subsidy funds and is paid in part from local supplementary revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, and any contrary prior administrative interpretation of the provisions of Laws 1978, chapter 720 is deemed to be erroneous. This section shall be deemed to be remedial in nature and shall be effective retroactively to March 30, 1978. Any employee contributions and any employer and employer additional contributions taken from or on behalf of any person who would have been excluded from retirement fund coverage pursuant to Laws 1978, chapter 720 except for the erroneous prior administrative interpretation shall be deemed to be erroneous deductions and shall be refunded as soon as practicable to the person and employing unit involved. The refund shall be accompanied by interest at the rate of five percent per annum compounded, payable from the date that the erroneous deduction was taken to the first day of the month in which the refund is processed.

**History:** 1979 c 216 s 22

### **356.50 SERVICE AND SALARY CREDIT FROM BACK PAY AWARDS IN THE EVENT OF WRONGFUL DISCHARGE.**

(a) A person who is wrongfully discharged from public employment that gave rise to coverage by a public employee pension plan listed in section 356.30, subdivision 3, is entitled to obtain allowable service credit from the applicable public employee pension plan for the applicable period caused by the wrongful discharge. A person is wrongfully discharged for purposes of this section if:

(1) the person has been determined by a court of competent jurisdiction or an arbitrator in binding arbitration to have been wrongfully discharged from public employment;

(2) the person received an award of back pay with respect to that discharge; and

(3) the award does not include any amount for any lost or interrupted public pension plan coverage.

(b) To obtain the public pension plan allowable service credit, the person shall pay the required member contribution amount. The required member contribution amount is the member contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the unpaid gross salary amounts of the back pay award including unemployment compensation, workers' compensation or wages from other sources which reduced the back award. No contributions shall be made under this clause for compensation covered by a public pension plan listed in section 356.30, subdivision 3, for employment during the removal period. The person shall pay the required member contribution amount within 60 days of the date of receipt of the back pay award, within 60 days of April 14, 1992, or within 60 days of a billing from the retirement fund, whichever is later.

(c) The public employer who wrongfully discharged the public employee must pay an employer contribution on the back pay award. The employer contribution must be based on the employer contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the salary amount on which the member contribution amount was determined under paragraph (b). Interest on both the required member and employer contribution amount must be paid by the employer at the annual compound rate of 8.5 percent per year, expressed monthly, between the date the contribution amount would have been paid to the date of actual payment. The employer payment must be made within 30 days of the payment under paragraph (b).

**History:** 1992 c 443 s 1

**356.60** Subdivision 1. MS 1981 Supp [Repealed, 1982 c 578 art 1 s 19]

Subd. 2. MS 1980 [Repealed, 1982 c 578 art 1 s 19]

Subd. 3. MS 1980 [Repealed, 1982 c 578 art 1 s 19]

### **356.61 LIMITATION ON PUBLIC EMPLOYEE RETIREMENT ANNUITIES.**

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements or retirement plan contracts to the contrary, no person who has pension or retirement coverage by a public pension plan shall be entitled to receive a monthly retirement annuity or disability benefit which, at the time of commencement of the retirement annuity or disability benefit, exceeds the lesser of:

(a) the amount of the final monthly salary of the person; or

(b) 1/12 of the amount of the annual benefit permitted by the terms of section 415 of the Internal Revenue Code with respect to a participant in a plan qualified under section 401(a) of the Internal Revenue Code, as amended through December 31, 1982.

The benefit limitation of clause (b) is to be determined on the date the benefit is initially payable or on the date the employee terminated employment, if earlier. The benefit limitation on any date is the benefit limitation for the limitation year in which the date occurs. The limitations apply only to the annual benefit which is derived from employer contributions. Mandatory and voluntary employee contributions, if any, are treated as a separate defined contribution plan maintained by the employer which is subject to the limitations placed on annual additions to defined contribution plans.

The maximum annual benefit of clause (b) for any limitation year is the lesser of (1) or (2) below:

(1) A dollar limitation of \$90,000, adjusted as of January 1 of each calendar year to the dollar limitation as determined for that year by the commissioner of Internal Revenue. The amount determined for any year will apply to limitation years ending with or within that calendar year.

(2) A compensation limitation of 100 percent of the average of compensation paid or made available to the participant by the employer during those three consecutive calendar years of employment, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. Compensation means any compensation which is includable in the employee's gross income.

A benefit shall be deemed not to exceed the maximum benefit limitation of clause (b) if:

(1) the retirement benefits payable under the plan and under any other defined benefit plans of the employer do not exceed the \$10,000 limit set in section 415(b)(4) of the Internal Revenue Code for the plan year, or for any prior plan year, and

(2) the employer has not at any time maintained a defined contribution plan in which the employee participated.

A public pension plan is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees other than volunteer firefighters, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association to which section 69.77 applies, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources. Final monthly salary is the hourly rate of compensation received by the person on account of the most recent public employment for the final pay period occurring prior to retirement multiplied by 174.

The figure for the monthly retirement annuity or disability benefit to be used for the calculation of this limitation shall not include any reduction or adjustment required for retirement prior to the normal retirement age or required for the election of an optional annuity.

If the figure for the monthly retirement annuity or disability benefit exceeds the limit contained in this section, the annuity or benefit payable shall be reduced appropriately.

The managing board of each public pension plan from which a retirement annuity or disability benefit is payable shall, at the time that the retirement annuity or disability benefit commences, contact all other public pension plans to determine whether or not the recipient of the retirement annuity or disability benefit is also receiving or is entitled to receive a retirement annuity or disability benefit from any other public pension plan. If a person is entitled to receive or is receiving a retirement annuity or disability benefit from more than one public pension plan, all retirement annuities or disability benefits from all public pension plans shall be totaled in determining whether or not the limitation shall apply; provided however, that the limitation shall be based on the highest final monthly salary received by the individual from any plan. Any reduction in the amount of the retirement annuity or disability benefit required pursuant to this section shall be made by the public pension plan which provided retirement coverage for the most recent period of service.

**History:** 1982 c 578 art 1 s 10; 1983 c 286 s 16; 1984 c 574 s 12

### **356.615 LIMITATION ON USE OF PUBLIC PENSION PLAN ASSETS.**

(a) Money held by or credited to a public pension plan as assets, including employer and employee contributions, state aid, appropriations from the state or a governmental subdivision, and accrued earnings on investments, constitutes a dedicated fund. The dedicated fund may be used exclusively to pay retirement annuities, service pensions, disability benefits, survivor benefits, refunds of contributions, or other benefits provided under the benefit plan document or documents governing the public pension plan, and to pay reasonable administrative expenses approved by the governing board of the public pension plan or by another appropriate authority. No assets of a public pension plan may be loaned or transferred to the state or a governmental subdivision or be used to amortize an unfunded actuarial accrued liability in another public pension plan or fund, whether or not the plan providing the assets consolidates or has consolidated with the plan receiving the assets. Nothing in this section prohibits a public pension plan or the state board of investment from investing the assets of a plan as authorized by law, including the investment of the assets of public pension plans by the state board of investment in a commingled investment fund.

(b) A public pension plan for purposes of this section means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, or a retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or other public sources.

**History:** 1987 c 296 s 32; 1987 c 372 art 6 s 1

### **356.62 PAYMENT OF EMPLOYEE CONTRIBUTION.**

For purposes of any public pension plan, as defined in section 356.61, each employer shall pick up the employee contributions required pursuant to law or the pension plan for all salary payable after December 31, 1982. If the United States Treasury department rules that pursuant to section 414(h) of the Internal Revenue Code of 1954, as amended, that these picked up contributions are not includable in the employee's adjusted gross income until they are distributed or made available, then these picked up contributions shall be treated as employer contributions in determining tax treatment pursuant to the Internal Revenue Code of 1954, as amended, and the employer shall discontinue withholding federal income taxes on the amount of these contributions. The employer shall pay these picked up contributions from the same source of funds as is used to pay the salary of the employee. The employer shall pick up these employee contributions by a reduction in the cash salary of the employee.

Employee contributions that are picked up shall be treated for all purposes of the

public pension plan in the same manner and to the same extent as employee contributions that were made prior to the date on which the employee contributions pick up began. The amount of the employee contributions that are picked up shall be included in the salary upon which retirement coverage is credited and retirement and survivor's benefits are determined. For purposes of this section, "employee" means any person covered by a public pension plan. For purposes of this section, "employee contributions" include any sums deducted from the employee's salary or wages or otherwise paid in lieu thereof, regardless of whether they are denominated contributions by the public pension plan.

For any calendar year in which withholding has been reduced pursuant to this section, the employing unit shall supply each employee and the commissioner of revenue with an information return indicating the amount of the employer's picked-up contributions for the calendar year that were not subject to withholding. This return shall be provided to the employee not later than January 31 of the succeeding calendar year. The commissioner of revenue shall prescribe the form of the return and the provisions of section 289A.12 shall apply to the extent not inconsistent with the provisions of this section.

**History:** *3Sp1982 c 1 art 2 s 7; 1983 c 148 s 6; 1983 c 216 art 1 s 85; 1990 c 480 art 1 s 46*

### **356.65 DISPOSITION OF ABANDONED PUBLIC PENSION FUND AMOUNTS.**

**Subdivision 1. Definitions.** For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the meanings given to them:

(a) "Public pension fund" means any public pension plan as defined in section 356.61 and any Minnesota volunteer firefighters relief association which is established pursuant to chapter 424A and governed pursuant to sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of finance, which have been issued and delivered for more than six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made;

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

**Subd. 2. Disposition of abandoned amounts.** Any unclaimed public pension fund amounts existing in any public pension fund shall be presumed abandoned, but shall not be subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts shall cancel and shall be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the public pension fund or applies for a retirement annuity pursuant to section 3A.12, 352.72, 352B.30, 352C.051, 353.71, 354.60, 356.30, or 422A.16, subdivision 8, whichever is applicable, the canceled amount shall be restored to the credit of the person.

**History:** *1981 c 224 s 178; 1983 c 286 s 17; 1992 c 513 art 4 s 41*

### **356.70 EARLY RETIREMENT.**

**Subdivision 1. Combined age and service requirement.** Any member of a retirement



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plan established pursuant to chapter 352, 353, 354, or 354A who by January 1, 1987, has attained the age of at least 55 years and whose attained age plus credited allowable service totals at least 85, is entitled, upon valid application and termination of service prior to July 1, 1987, to the normal retirement annuity provided in these chapters without any reduction in annuity by reason of such early retirement.

**Subd. 2. Reports.** The department of finance with the cooperation of the retirement associations to which this section applies shall estimate net savings, if any, made possible by the provisions of this section, and shall report its findings to the legislature by February 1, 1986.

The retirement associations shall prepare reports to the legislature summarizing information in its possession relating to characteristics of retirees retiring under the provisions of this section including:

- (a) age at time of retirement;
- (b) years of service;
- (c) salary at time of retirement;
- (d) high-five average salary used to determine the retirement annuity;
- (e) monthly benefit and reserves required under the rule of 85; and
- (f) monthly benefit and reserves required for identical retirement dates without rule of 85.

The reports shall be made to the legislature within 30 days following the end of calendar years 1984, 1985, and 1986 and shall cover all retirees retiring under the provisions of this section.

**History:** 1984 c 564 s 44; 1Sp1985 c 7 s 29; 1986 c 458 s 21

## **356.71 REAL ESTATE INVESTMENTS.**

Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the state board of investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust if the investment is consistent with section 356A.04. Except to the extent authorized in the case of the Minneapolis employees retirement fund under section 422A.05, subdivision 2c, paragraph (a), an investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.

**History:** 1983 c 291 s 1; 1991 c 206 s 2

## **356.80 PROVISION OF INFORMATION IN THE EVENT OF MARRIAGE DISSOLUTION.**

**Subdivision 1. Information for a pending marriage dissolution.** (a) Upon written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administrator must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, or as of the end of the previous fiscal year for the plan, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

**Subd. 2. Information for an existing dissolution decree.** If a marriage dissolution decree rendered by a court of competent jurisdiction prior to August 1, 1987, provided

a procedure for the distribution of future pension plan payments, upon request the applicable pension plan administrator shall provide on a timely basis to the court and the parties to the action the required information to implement that procedure without requiring a signed authorization from the plan member or former plan member.

Subd. 3. **Access to data.** Notwithstanding any provision of chapter 13 to the contrary, an administrator may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 518.582, to the extent necessary to comply with this section, but only if the administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action.

**History:** 1987 c 157 s 8; 1988 c 668 s 6; 1989 c 319 art 2 s 25,26

### **356.81 REPAYMENT OF REFUNDS.**

Repayment of a refund and interest on that refund permitted under laws governing any public pension plan in Minnesota may be made with funds distributed from a plan qualified under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a) or an annuity qualified under the federal Internal Revenue Code of 1986, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive director must require the member to provide written documentation to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the federal Internal Revenue Code of 1986.

**History:** 1989 c 319 art 2 s 27

### **356.82 SAVINGS CLAUSE.**

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 37; 354.05, subdivision 38; and 354A.011, subdivision 15a is to create a normal retirement age for persons first covered by those sections after the effective date of those sections that is the same as the retirement age in the federal Social Security law, including future amendments to that law. If a court determines that the legislature may not incorporate by reference the future changes in federal Social Security law, the legislature reserves the right to amend the appropriate sections to make the normal retirement conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after the effective date of those sections has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.

**History:** 1989 c 319 art 13 s 95; 1992 c 464 art 1 s 43

### **356.85 REVIEW OF RULE OF 90.**

By September 1, 1993, the executive directors of the teachers retirement association, the state retirement system, and each teachers retirement fund association in a city of the first class must calculate the number of employees who were eligible to retire without any reduction in their annuity due to early retirement because their attained age plus credited allowable service totaled 90 years between the effective date of sections 352.116; 354.44, subdivision 6; 354A.31, subdivision 6; and May 16, 1989, and June 30, 1993. The executive directors must also calculate the number of these employees who did retire early and who received an unreduced annuity because their attained age plus credited allowable service totaled 90 years. The executive directors must report the results of their calculation to the executive director of the legislative commission on pensions and retirement. If the calculation shows that the number of employees from all of the systems combined who did retire under the rule of 90 is more than 45 percent of the number from all the systems who were eligible to retire under the rule

of 90, sections 352.116, subdivision 1, paragraph (b), 354.44, subdivision 6, clause (3)(iii), 354A.31, subdivision 6, paragraph (b), and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90 are not effective after June 30, 1994. The executive directors must make a similar combined calculation before September 1, 1998, and September 1 every five years after that, based on use of the rule of 90 during the four-year period ending on the most recent June 30. If any calculation shows that the number of employees who retired under the rule of 90 is more than 45 percent of the number eligible to retire under the rule of 90, sections 352.116, subdivision 1, paragraph (b); 354.44, subdivision 6, clause (3)(iii); 354A.31, subdivision 6, paragraph (b), and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90 are not effective after the following June 30. The legislature reserves the right to amend or repeal sections 352.116, subdivision 1, paragraph (b); 354.44, subdivision 6, clause (3)(iii); 354A.31, subdivision 6, paragraph (b); and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90, effective July 1, 1994, and July 1 every fifth year after 1994.

**History:** 1989 c 319 art 13 s 96

### **356.86 POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.**

**Subdivision 1. Entitlement.** A person who is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from a retirement fund specified in subdivision 3, clauses (1) to (8), is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2, if the annuity or benefit was computed under:

(1) the laws in effect before June 1, 1973, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (4); or

(2) the laws in effect before July 1, 1973, if the person is receiving an annuity or benefit from a retirement fund specified in subdivision 3, clause (1), (2), (3), or (5); or

(3) the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on or before December 31, 1977, if the person is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from the retirement fund specified in subdivision 3, clause (5); or

(4) the laws in effect before May 1, 1974, and before any adjustment under Laws 1987, chapter 372, article 3, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (6); or

(5) the laws in effect before January 1, 1970, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (7); or

(6) the laws in effect before June 30, 1971, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (8).

**Subd. 2. Amount of postretirement adjustment; payment.** (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan annuity or benefit recipients, the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year, the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(c) For basic plan annuity or benefit recipients, the postretirement adjustment in 1989 is the greater of:

(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

- (i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and
- (ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the Social Security Administration.

In 1990 and each following year, each eligible basic plan annuity or benefit recipient shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years, the adjustment must be paid on December 1 to those persons receiving an annuity or benefit on the preceding November 30. A person who is eligible may elect to participate in an optional annuity or benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid or returns the amount of adjustment to the retirement fund. Written notice of the waiver of the postretirement adjustment is irrevocable for the year during which it was made.

**Subd. 3. Covered retirement funds.** The postretirement adjustment provided in this section applies to the following retirement funds:

- (1) public employees retirement fund;
  - (2) public employees police and fire fund;
  - (3) teachers retirement fund;
  - (4) state patrol retirement fund;
  - (5) state employees retirement fund of the Minnesota state retirement system;
  - (6) Minneapolis teachers retirement fund association established under chapter 354A;
  - (7) St. Paul teachers retirement fund association, established under chapter 354A;
- and
- (8) Duluth teachers retirement fund association established under chapter 354A.

**Subd. 4. Optional postretirement adjustment payment schedule.** Basic plan annuity or benefit recipients receiving adjustments under subdivision 2, paragraph (c), clause (2), and whose adjustment exceeds 20 percent of their Minnesota plan annuity or benefit may elect to have the amount of the adjustment paid in equal monthly amounts instead of receiving a lump sum payment on December 1, 1989. Selection of this optional payment schedule must be made by the recipient in writing on forms prepared by the retirement association. This optional payment schedule may be revoked by the recipient in writing prior to the November 1 preceding the December 1 lump sum distribution. Upon the death of the annuity or benefit recipient, any remaining unpaid monthly amounts shall be paid to the surviving spouse, or if no spouse survives, to the annuity or benefit recipient's beneficiary or estate.

**Subd. 5. Social security information.** To be eligible for a postretirement adjustment calculated under subdivision 2, paragraph (c), clause (2), a person must authorize the Social Security Administration to release to the retirement association information on the person's social security cash benefits. This authorization must be received by the retirement association before the December 1, 1989, payment date.

**Subd. 6. Report.** By September 30, 1990, the retirement funds listed in subdivision 3 shall report to the legislature and the commissioner of finance on the number of annu-

ity and benefit recipients eligible for each type of adjustment established in subdivision 2, the annual cost of each type of adjustment, and the estimated actuarial liability associated with each.

**History:** 1989 c 319 art 15 s 1; 1990 c 570 art 12 s 59-62; 1991 c 341 s 45,46

### **356.865 SUPPLEMENTAL BENEFIT; LUMP SUM PAYMENTS; MINNEAPOLIS EMPLOYEES RETIREMENT FUND.**

Subdivision 1. **Entitlement.** Any person who is receiving either an annuity that was computed under the laws in effect before March 5, 1974, or a "\$2 bill and annuity" annuity from the Minneapolis employees retirement fund is entitled to receive a supplemental benefit lump sum payment from the retirement fund in the amount specified in subdivision 2.

Subd. 2. **Amount of payment.** (a) For any person receiving an annuity or benefit on November 30, 1991, and entitled to receive a supplemental benefit lump sum payment under subdivision 1, the payment is \$28 for each full year of allowable service credited to the person by the retirement fund.

In 1992 and each following year, each eligible benefit recipient shall receive the amount received in the preceding year increased by the same percentage applied on the most recent January 1 to regular annuities paid from the Minneapolis employees retirement fund.

(b) The payment provided for in this section is payable on December 1, 1991, to those persons receiving an annuity or benefit on November 30, 1991. In subsequent years, the payment must be made on December 1 to those persons receiving an annuity or benefit on the preceding November 30. This section does not authorize payment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the payment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that it not be paid.

Subd. 3. **Cost.** The cost of the payments made under this section is the responsibility of the state. The annual amortization amount must be added to the annual state contribution amount determined under section 422A.101, subdivision 3, effective July 1, 1991.

**History:** 1991 c 345 art 4 s 5

### **356.87 HEALTH INSURANCE WITHHOLDING.**

Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund listed in section 356.20, subdivision 2, shall withhold health insurance premium amounts from the retirement annuity, disability benefit or survivor benefit, and pay the premium amounts to the public employees insurance plan. The public employees insurance plan shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

**History:** 1990 c 589 art 2 s 2; 1991 c 341 s 47

**NOTE:** This section was also amended by Laws 1991, chapter 340, section 32, to read as follows:

"356.87 **Health insurance withholding.**

Upon authorization of a person entitled to receive benefits, the executive director of a public pension fund listed in section 356.20, subdivision 2, must withhold premium amounts from the pension benefits and pay the amounts to the public employees insurance plan. The insurance plan must reimburse the public pension fund for the administrative expense of withholding the premium amounts and must also assume any liability which may result from the failure of a public pension fund to properly withhold the premium amounts from the benefits of a person."