

CHAPTER 352

MINNESOTA STATE RETIREMENT SYSTEM

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352.01 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1994]

Subd. 2a. **Included employees.** (a) "State employee" includes:

- (1) employees of the Minnesota historical society;
- (2) employees of the state horticultural society;
- (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
- (4) employees of the Minnesota crop improvement association;
- (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (6) employees of the state universities employed under the university activities program;
- (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in clause (8) of subdivision 2b;
- (8) employees of the armory building commission;
- (9) permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- (10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
- (11) employees of the Minnesota safety council;
- (12) any employees on authorized leave of absence from the transit operating division of the former metropolitan transit commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division;
- (13) employees of the metropolitan council, metropolitan parks and open space commission, metropolitan sports facilities commission, metropolitan mosquito control commission, or metropolitan radio board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;
- (14) judges of the tax court; and
- (15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) providing that employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

Subd. 2b. **Excluded employees.** "State employee" does not include:

- (1) elective state officers;

(2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;

(3) employees who are eligible for membership in the state teachers retirement association except employees of the department of children, families, and learning who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(6) election officers;

(7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;

(9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;

(10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;

(11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) employees of the Sibley House Association;

(13) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(14) state troopers;

(15) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(16) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(17) persons described in section 352B.01, subdivision 2, clauses (2) to (5);

(18) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

(19) trainee employees, except those listed in subdivision 2a, clause (10);

(20) persons whose compensation is paid on a fee basis;

(21) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(22) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(23) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable elec-

tion of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

(24) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(25) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(26) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(27) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

(28) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

(29) persons employed in positions designated by the department of employee relations as student workers;

(30) members of trades employed by the successor to the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;

(31) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

(32) off-duty peace officers while employed by the metropolitan council;

(33) persons who are employed as full-time police officers by the metropolitan council and as police officers are members of the public employees police and fire fund;

(34) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund;

(35) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended; and

(36) persons who are employed by the board of trustees of the Minnesota state colleges and universities and who elect to remain members of the public employees retirement association or the Minneapolis employees retirement fund, whichever applies, under section 136C.75.

[For text of subs 3 to 12, see M.S.1994]

Subd. 13. **Salary.** "Salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs. Lump sum sick leave payments, severance payments, lump sum annual leave payments and overtime payments made at the time of separation from state service, payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage, and payments made as an employer-paid fringe benefit, workers' compensation payments, employer contributions to a deferred compensation or tax sheltered annuity program, and amounts contributed under a benevolent vacation and sick leave donation program are not salary.

[For text of subs 13a to 26, see M.S.1994]

History: 1995 c 54 s 26; 1995 c 186 s 70; 1995 c 195 art 2 s 1; 1995 c 212 art 4 s 64; 1995 c 262 art 1 s 3; 1Sp1995 c 3 art 16 s 13

352.021 MINNESOTA STATE RETIREMENT SYSTEM.

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. [Repealed, 1995 c 262 art 1 s 26]

352.12 REFUND AFTER DEATH.

Subdivision 1. **Death before termination of service.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed as provided in section 352.22, subdivision 2, to the first day of the month in which the refund is processed. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless death occurred before any payment could be negotiated.

Subd. 2. **Surviving spouse benefit.** (a) If an employee or former employee has credit for at least three years allowable service and dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest under subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee or former employee could have qualified for on the date of death.

(b) If the employee was under age 55 and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse on the date of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1, paragraph (a), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the employee was under age 55 and has credit for at least three years of allowable service credit on the date of death but did not yet qualify for retirement, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse at the time of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1 or 1a, to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

The surviving spouse eligible for benefits under paragraph (a) may apply for the annuity at any time after the date on which the employee or former employee would have attained the required age for retirement based on the allowable service earned. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for the annuity at any time after the employee's death. The annuity must be computed under sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse, or upon expiration of a term certain benefit payment to a surviving spouse under subdivision 2a. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased

employee's or former employee's last designated beneficiary or, if none, as specified under subdivision 1.

Any employee or former employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

Subd. 2a. Surviving spouse coverage term certain. In lieu of the 100 percent optional annuity under subdivision 2, or refund under subdivision 1, the surviving spouse of a deceased employee or former employee may elect to receive survivor coverage in a term certain of five, ten, 15, or 20 years, but monthly payments must not exceed 75 percent of the average high-five monthly salary of the deceased employee or former employee. The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 2.

If a survivor elects a term certain annuity and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the survivor's estate.

[For text of subs 2b to 4, see M.S.1994]

Subd. 6. Death after service termination. Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance, or a disability benefit, a refund must be made to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions. The refund must include interest at the rate of six percent per year compounded annually. The interest must be computed as provided in section 352.22, subdivision 2.

[For text of subs 7 to 13, see M.S.1994]

History: 1995 c 141 art 3 s 1-4

352.15 EXEMPTION FROM PROCESS AND TAXATION.

[For text of subs 1 and 1a, see M.S.1994]

Subd. 3. Deducting health insurance premiums. The board may direct, at its discretion, the deduction of a retiree's health or dental insurance premiums and transfer of the amounts to a health or dental insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health or dental insurance carrier must refund deductions withheld from a retiree's check in error directly to the retiree. The board shall require the insurance carrier to reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

[For text of subd 4, see M.S.1994]

History: 1995 c 254 art 1 s 89

352.22 REFUND OR DEFERRED ANNUITIES.

[For text of subs 1 to 8, see M.S.1994]

Subd. 10. Other refunds. Former employees covered by the system are entitled to apply for refunds if they are or become members of the state patrol retirement fund, the state teacher's retirement association, or employees of the University of Minnesota excluded from coverage under the system by action of the board of regents; or labor service employees, excluded from coverage under section 352.01, subdivision 2b, clause (25); or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from

coverage under section 352.01, subdivision 2b, clause (8). The refunds must include accumulated contributions plus interest as provided in subdivision 2. These employees may apply 30 days or more after their coverage ceases, even if they continue in state service but in positions not covered by this chapter.

History: 1995 c 54 s 27