

## CHAPTER 352

## MINNESOTA STATE RETIREMENT SYSTEM

352.01	Definitions.	352.72	Coverage by more than one retirement system.
352.03	Board of directors; executive director.	352.92	Correctional employee contributions.
352.04	State employees retirement fund, contributions by employee and employer.	352.93	Retirement annuity.
352.115	Retirement annuity.	352.931	Survivor benefits.
352.15	Exemption from process and taxation.	352.95	Disability benefits.
		352.96	Deferred compensation.

**352.01 DEFINITIONS.**

*[For text of subs 1 and 2, see M.S.1996]*

**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 subdivision 2b, clause (8);
- (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;
- (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;
- (16) seasonal help in the classified service employed by the department of revenue; and
- (17) a person who renders teaching or other service for the Minnesota state colleges and universities system and who also renders service on a part-time basis for an employer with employees covered by the general state employees retirement plan of the Minnesota state retirement system, for all service with the Minnesota state colleges and universities system,

if the person's nonteaching service comprises at least 50 percent of the combined total salary received by the person as determined by the chancellor of the Minnesota state colleges and universities system or if the person is certified for general state employees retirement plan coverage by the chancellor of the Minnesota state colleges and universities system.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) if 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 or the board of trustees of the Minnesota state colleges and universities, 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, and 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;

(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 election 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 24, see M.S.1996]*

**Subd. 25. Normal retirement age.** "Normal retirement age" means age 65 for a person who first became a covered employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first becomes a covered employee after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.

*[For text of subd 26, see M.S.1996]*

**History:** 1997 c 183 art 3 s 38; 1997 c 233 art 1 s 16; 1997 c 241 art 8 s 3,4

### **352.03 BOARD OF DIRECTORS; EXECUTIVE DIRECTOR.**

*[For text of subs 1 to 2, see M.S.1996]*

**Subd. 4. Duties and powers of board of directors.** The board shall:

- (1) elect a chair;
- (2) appoint an executive director;
- (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law;
- (4) consider and dispose of, or take any other action the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system;
- (5) advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control; and
- (6) oversee the administration of the state deferred compensation plan established in section 352.96.

The director and assistant director must be in the unclassified service but appointees may be selected from civil service lists if desired. The salary of the executive director must be as provided by section 15A.0815. The salary of the assistant director must be set in accordance with section 43A.18, subdivision 3.

*[For text of subs 4a to 16, see M.S.1996]*

**History:** 2Sp1997 c 3 s 18

### **352.04 STATE EMPLOYEES RETIREMENT FUND, CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Employee contributions.** The employee contribution to the fund must be equal to 4.0 percent of salary. These contributions must be made by deduction from salary as provided in subdivision 4.

**Subd. 3. Employer contributions.** The employer contribution to the fund must be equal to 4.0 percent of salary.

*[For text of subs 4 to 12, see M.S.1996]*

**History:** 1997 c 233 art 1 s 17,18

### **352.115 RETIREMENT ANNUITY.**

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Retirement annuity formula.** (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee or a member of a

pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in subdivision 2, multiplied by the percent specified in section 356.19, subdivision 1, per year of allowable service for the first ten years and the percent specified in section 356.19, subdivision 2, for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who has become at least 55 years old and first became a covered employee after June 30, 1989, and to any other covered employee who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in subdivision 2, multiplied by the percent specified in section 356.19, subdivision 2, for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

*[For text of subs 7 to 12, see M.S.1996]*

**History:** 1997 c 233 art 1 s 19

### **352.15 EXEMPTION FROM PROCESS AND TAXATION.**

**Subdivision 1. Exemption; exceptions.** None of the money, annuities, or other benefits mentioned in this chapter is assignable either in law or in equity or subject to state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 1a or section 518.58, 518.581, or 518.6111.

*[For text of subs 1a to 4, see M.S.1996]*

**History:** 1997 c 203 art 6 s 92

### **352.72 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Computation of deferred annuity.** (a) The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, must be computed as provided in section 352.22, subdivision 3, on the basis of allowable service before termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity must be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose must be five percent compounded annually until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former employee attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period must be augmented by interest under this subdivision. The sum of the augmented required reserves so determined is the present value of the annuity. "Uninterrupted service" for the purpose of this subdivision means periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refund, the service restored by the repayment must be considered continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service must be those applicable to a new employee. The mortality table and interest assumption used to compute the annuity must be those in effect when the employee files application for annuity. This section does not reduce the annuity otherwise payable under this chapter.

(b) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former state employee who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 4d, from five percent to six percent under a calculation procedure and the tables adopted by the board and approved by the actuary retained by the legislative commission on pensions and retirement.

*[For text of subds 4 and 5, see M.S.1996]*

**History:** 1997 c 233 art 1 s 20

### 352.92 CORRECTIONAL EMPLOYEE CONTRIBUTIONS.

Subdivision 1. **Employee contributions.** Employee contributions of covered correctional employees must be in an amount equal to 5.50 percent of salary.

Subd. 2. **Employer contributions.** The employer shall contribute for covered correctional employees an amount equal to 7.70 percent of salary.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 233 art 1 s 21,22

### 352.93 RETIREMENT ANNUITY.

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Calculating monthly annuity.** The monthly annuity under this section must be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by the percent specified in section 356.19, subdivision 5.

*[For text of subd 2a, see M.S.1996]*

Subd. 3. **Annuity accrual.** The annuity under this section must begin to accrue as provided in section 352.115, subdivision 8.

Subd. 3a. **Optional annuities.** The board may establish optional annuity forms to pay a higher amount from the date of retirement until an employee is first eligible to draw social security benefits or up to the age the employee is eligible to receive unreduced social security benefits, at which time the monthly benefits must be reduced. The optional annuity forms must be actuarially equivalent to the normal single life annuity form provided in subdivision 2. The optional annuity forms must be approved by the actuary retained by the legislative commission on pensions and retirement.

*[For text of subd 4, see M.S.1996]*

**History:** 1997 c 233 art 1 s 23-25

### 352.931 SURVIVOR BENEFITS.

Subdivision 1. **Surviving spouse benefit.** (a) If the correctional employee was at least age 50, has credit for at least three years of 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 under section 352.12, subdivision 1, an annuity for life equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The election may be made at any time after the date of death of the employee. The surviving spouse benefit begins to accrue as of the first of the month next following the date on which the application for the benefit was filed.

(b) If the employee was under age 50, dies, and had 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 early retirement reduction under section 352.93, subdivision 2a, to age 50, and one-half of the early retirement reduction from age 50 to the age payment begins. The surviving spouse eligible for surviving spouse benefits under this paragraph may apply for the annuity at any time after the employee's death. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision.

(c) The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. Any 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. 2. Surviving spouse coverage; term certain.** In lieu of the 100 percent optional annuity under subdivision 1, the surviving spouse of a deceased employee may elect to receive survivor coverage in a term certain of ten, 15, or 20 years. The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 1 and must be approved by the actuary retained by the legislative commission on pensions and retirement. The optional annuity ceases upon the expiration of the term certain period. 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.

**Subd. 3. Dependent child survivor coverage.** If there is no surviving spouse eligible for benefits under subdivision 1, a dependent child as defined in section 352.01, subdivision 26, is eligible for a dependent child survivor benefit. Benefits to a dependent child must be paid from the date of the employee's death to the date the dependent child attains age 20 if the child is under age 15 on the date of death. If the child is 15 years or older on the date of death, the benefit is payable for five years. The payment to a dependent child is an amount actuarially equivalent to the value of a 100 percent joint and survivor optional annuity using the age of the employee and age of the dependent child at the date of death in lieu of the age of the surviving spouse. If there is more than one dependent child, each dependent child shall receive a proportionate share of the actuarial value of the employee's account, with the amount of the benefit payable to each child to be determined based on the portion of the total eligibility period that each child is eligible. The process for calculating the dependent child survivor benefit must be approved by the actuary retained by the legislative commission on pensions and retirement.

**Subd. 4. Death refund.** 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 to the surviving spouse and surviving child or children must be paid to the deceased employee's last designated beneficiary or, if none, as specified under section 352.12, subdivision 1.

**Subd. 5. Application.** The benefit elections under this section must be made on an application form prescribed by the executive director and must be filed with the executive director.

**History:** 1997 c 233 art 1 s 26

### 352.95 DISABILITY BENEFITS.

**Subdivision 1. Job-related disability.** A covered correctional employee who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.19, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

*[For text of subs 1a to 4, see M.S.1996]*

**Subd. 5. Retirement status at normal retirement age.** The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in

which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.93 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made within 90 days before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

*[For text of subs 6 and 7, see M.S.1996]*

**History:** 1997 c 233 art 1 s 27,28

### **352.96 DEFERRED COMPENSATION.**

*[For text of subs 1 and 1a, see M.S.1996]*

**Subd. 2. Purchase of shares.** The amount of compensation so deferred may be used to purchase:

- (1) shares in the Minnesota supplemental investment fund established in section 11A.17;
- (2) saving accounts in federally insured financial institutions;
- (3) life insurance contracts, fixed annuity and variable annuity contracts from companies that are subject to regulation by the commissioner of commerce;
- (4) investment options from open-end investment companies registered under the federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1 to 80a-64;
- (5) investment options from a firm that is a registered investment advisor under the Investment Advisors Act of 1940, United States Code, title 15, section 80b-1 to 80b-21;
- (6) investment options of a bank as defined in United States Code, title 15, section 80b-2, subsection (a), paragraph (2), or a bank holding company as defined in the Bank Holding Company Act of 1956, United States Code, title 12, section 1841, subsection (a), paragraph (1); or
- (7) a combination of clause (1), (2), (3), (4), (5), or (6), as provided by the plan as specified by the participant.

All amounts contributed to the deferred compensation plan and all earnings on those amounts will be held for the exclusive benefit of the plan participants and beneficiaries. These amounts will be held in trust, in custodial accounts, or in qualifying annuity contracts as required by federal law and in accordance with section 356A.06, subdivision 1. This subdivision does not authorize an employer contribution, except as authorized in section 356.24, subdivision 1, paragraph (a), clause (5). The state, political subdivision, or other employing unit is not responsible for any loss that may result from investment of the deferred compensation.

**Subd. 3. Executive director to administer section.** This section must be administered by the executive director of the system with the advice and consent of the board of directors under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with chapter 356A. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2), (3), (4), (5), and (6). The state board of investment may retain consulting services to assist it in soliciting and evaluating bids and in the periodic review of companies offering options under subdivision 2, clauses



(3), (4), (5), and (6). The periodic review must occur at least every two years. The state board of investment may annually establish a budget for its costs in the soliciting, evaluating, and periodic review processes. The state board of investment may charge a proportional share of all costs related to the periodic review to each company currently under contract and may charge a proportional share of all costs related to soliciting and evaluating bids to each company selected by the state board. All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clauses (3), (4), (5), and (6), must be paid by the companies ultimately selected by the state board of investment.

*[For text of subds 4 and 5, see M.S.1996]*

**Subd. 6. Exemption from process.** No amount of deferred compensation is assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

**History:** 1997 c 203 art 6 s 92; 1997 c 241 art 3 s 1-3; 1997 c 251 s 1