

## CHAPTER 352C

## ELECTIVE STATE OFFICERS RETIREMENT

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**352C.01 LEGISLATIVE FINDING AND INTENT.**

The legislature finds that service to Minnesota in the capacity of a constitutional officer as defined in section 352C.021 constitutes a unique contribution to the state and that such service is dissimilar to any other public employment. The legislature further finds that service as a constitutional officer for a period of eight years or longer deprives the individual so serving of normal opportunities to establish retirement benefits in a usual vocational pursuit and justifies adoption of special retirement provisions. The provisions of this chapter are intended by the legislature to reflect the unique nature of service as a constitutional officer and to have due regard for the unusual disruption of normal retirement planning that such service entails.

**History:** 1967 c 700 s 1; 1978 c 796 s 12; 1986 c 444; 1993 c 307 art 1 s 27

**352C.011 APPLICABILITY.**

(a) Except as provided in paragraph (b), this chapter applies only to constitutional officers first elected before July 1, 1997, to a constitutional office.

(b) Constitutional officers elected for the first time to a constitutional office after June 30, 1997, or constitutional officers who were elected before July 1, 1997, and who, after July 1, 1998, elect not to be members of the plan established by this chapter are covered by the unclassified employees retirement program governed by chapter 352D.

(c) The post-July 1, 1998, coverage election under paragraph (b) is irrevocable and must be made on a form prescribed by the executive director of the Minnesota state retirement system.

**History:** 1997 c 233 art 2 s 2

**352C.02 [Repealed, 1978 c 796 s 46]****352C.021 DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of this chapter, the following terms shall have the meanings given to them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **Constitutional officer.** "Constitutional officer" means a person who was duly elected and qualified and is serving as governor, lieutenant governor, attorney general, secretary of state, state auditor or state treasurer of the state of Minnesota.

Subd. 3. **Former constitutional officer.** "Former constitutional officer" means a person who has ceased to be a constitutional officer for any reason, including but not limited to the expiration of the term of office for which the person was elected, retirement or death.

Subd. 4. MS 1992 [Renumbered subd 3]

Subd. 4. **Surviving spouse.** "Surviving spouse" means the unmarried spouse of a deceased constitutional officer or former constitutional officer.

Subd. 5. MS 1992 [Renumbered subd 4]

Subd. 5. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased constitutional officer or a deceased former constitutional officer who is under the age of 18, or who is under the age of 22 and is a full-time student, and who in either case is unmarried and was actually dependent for more than one-half of the child's support upon the

constitutional officer or the former constitutional officer for a period of at least 90 days immediately prior to the death of the constitutional officer or the former constitutional officer. The term shall also include a posthumous child of the constitutional officer or the former constitutional officer.

Subd. 6. MS 1992 [Renumbered subd 5]

Subd. 6. **Allowable service.** "Allowable service" means any years or months of service as a constitutional officer if the person made the contributions required by section 352C.09 on a current basis. The service need not be continuous. For any constitutional officer or former constitutional officer in office on or before July 1, 1967, allowable service shall include any service as a constitutional officer prior to July 1, 1967, notwithstanding that the person did not make concurrent contributions as required by section 352C.09.

Subd. 7. MS 1992 [Renumbered subd 6]

Subd. 7. **Director.** "Director" means the executive director of the Minnesota state retirement system.

Subd. 8. [Renumbered subd 7]

**History:** 1978 c 796 s 13; 1980 c 614 s 123; 1986 c 444; 1993 c 13 art 1 s 39; 1993 c 307 art 1 s 28

352C.03 [Repealed, 1978 c 796 s 46]

### 352C.031 RETIREMENT ALLOWANCE.

Subdivision 1. **Unreduced retirement allowance.** Upon separation from service, a former constitutional officer who has attained the age of at least 62 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a normal retirement allowance.

Subd. 2. **Reduced retirement allowance.** Upon separation from service, a former constitutional officer who has attained the age of at least 60 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to a normal retirement allowance reduced by one-half of one percent for each month that the former constitutional officer is under age 62.

Subd. 3. **Average salary.** Average salary for purposes of calculating the normal retirement allowance pursuant to subdivision 4 shall mean the average of the highest five successive years of salary upon which contributions have been made pursuant to section 352C.09.

Subd. 4. **Retirement allowance formula.** (a) This paragraph applies to constitutional officers who terminate that service before July 1, 1997. The average salary multiplied by 2-1/2 percent for each year of allowable service and pro rata for completed months less than a full year shall determine the amount of the normal retirement allowance.

(b) This paragraph applies to constitutional officers who terminate that service after June 30, 1997. The retirement allowance is an amount equal to the rate under paragraph (a) per year of service of the constitutional officer's average monthly salary adjusted for that person 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. The adjustment must be calculated by or, alternatively, the adjustment procedure must be specified by the actuary retained by the legislative commission on pensions and retirement.

Subd. 5. **Benefit accrual and termination.** The benefit shall begin to accrue the first day of the month in which the application is received by the director but in no event earlier than the day following the termination of service or the attainment of the age required to receive such benefit, whichever is later. Thereafter, benefits shall be paid on the first day of each calendar month for that month. The benefit shall cease with the payment for the month in which the retired constitutional officer died.

Subd. 6. **Payment of retirement allowances.** Retirement allowances payable pursuant to this section shall be paid monthly by the executive director of the Minnesota state retirement system.

**History:** 1978 c 796 s 14; 1981 c 224 s 66; 1993 c 307 art 1 s 29; 1997 c 233 art 1, s 35

**352C.033 DEFERRED ANNUITIES AUGMENTATION.**

(a) The deferred retirement allowance for any former constitutional officer must be augmented as provided in this section. The required reserves applicable to the deferred retirement allowance, determined as of the date the retirement allowance begins to accrue using the appropriate mortality table and an interest assumption of six percent; shall be augmented from the first of the month following termination of service as a constitutional officer, or January 1, 1979, whichever is later; to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former constitutional officer attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

(b) The retirement allowance of, or the survivor benefit payable on behalf of, a former constitutional officer 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 tables adopted by the board as recommended by an approved actuary and approved by the actuary retained by the legislative commission on pensions and retirement.

**History:** 1978 c 796 s 15; 1992 c 446 s 2; 1993 c 307 art 1 s 30; 1997 c 233 art 1 s 36

**352C.04 SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS.**

**Subdivision 1. Surviving spouse benefit.** Upon the death of a constitutional officer while actively serving in office, or a former constitutional officer with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer or the former constitutional officer computed as though the constitutional officer or the former constitutional officer were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer as of the date of death. The benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life.

Subd. 2. [Repealed, 1976 c 329 s 36]

**Subd. 2a. Surviving dependent child benefit.** Upon the death of a constitutional officer while serving in office, or a former constitutional officer with at least eight years of allowable service, each dependent child shall be paid a survivor benefit in the following amount: First dependent child, a monthly benefit which equals 25 percent of the monthly retirement allowance computed as though the constitutional officer or the former constitutional officer were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater; for each additional dependent child or a monthly benefit which equals 12-1/2 percent of the monthly retirement allowance computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer or the former constitutional officer computed as in the case of the first child. The augmentation provided in subdivision 1, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage of the amount of the retirement allowance being paid as of the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 2b. [Repealed, 1976 c 329 s 36]

**Subd. 3. Payment interval.** Spouse's and dependent children's survivor benefits, payable under this section, shall be paid monthly by the executive director of the Minnesota state retirement system.

Subd. 4. **Application for survivor benefits.** A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer or the former constitutional officer; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit shall cease with the payment for the month in which the surviving spouse dies. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

**History:** 1967 c 700 s 4; 1969 c 399 s 1; 1969 c 1115 s 5; 1971 c 928 s 8-10; 1974 c 445 s 13; 1976 c 329 s 6,7; 1978 c 796 s 16-18; 1980 c 614 s 139; 1981 c 224 s 67; 1986 c 444; 1991 c 269 art 2 s 3,4; 1993 c 307 art 1 s 31

**352C.05** [Repealed, 1978 c 796 s 46]

### **352C.051 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.**

Subdivision 1. **Entitlement to annuity; legislative service.** Any constitutional officer who has been a member of the legislature with service credited pursuant to chapter 3A shall be entitled when qualified to a retirement allowance from the legislator's retirement plan and the elective state officers plan if the total allowable service for which the person has credit in the two plans totals eight or more years, provided that no portion of the allowable service upon which the retirement allowance from one plan is based, is again used in the computation for benefits from the other plan. The retirement allowance from each plan shall be determined by the appropriate provisions of the law governing each plan, except that the requirement that a person must have at least eight years of allowable service in the respective plan shall not apply for purposes of this section, provided that the aggregate service in the two plans equals eight or more years. The augmentation of deferred annuities provided in sections 3A.02, subdivision 4, and 352C.033, shall apply to the retirement allowances accruing hereunder.

Subd. 2. **Entitlement to annuity; public retirement service.** Any constitutional officer who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis employees retirement fund, or the state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision, but excluding all other funds providing retirement benefits for police and firefighters, shall be entitled when qualified to an annuity from each fund if the person's total allowable service credit in all funds or in any two of these funds totals eight or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund. The annuity from each fund shall be determined by the appropriate provisions of the law governing each fund, except that the requirement that a person must have at least eight years allowable service in the respective system or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals eight or more years. The augmentation of deferred annuities provided in section 352C.033 shall apply to the annuities accruing hereunder.

Subd. 3. **Refund repayment.** Any former constitutional officer who has received a refund as provided in section 352C.09, subdivision 2, who is a currently contributing member of a retirement fund specified or enumerated in subdivision 1 or 2, may repay the refund to the elective state officers retirement plan, with interest at an annual rate of 8.5 percent compounded annually.

**History:** 1978 c 796 s 19; 1981 c 37 s 2; 1981 c 298 s 11; 1986 c 444; 1992 c 598 art 1 s 8; 1993 c 307 art 1 s 32

**352C.06** [Repealed, 1978 c 796 s 46]

**352C.07** [Repealed, 1983 c 342 art 1 s 44]

**352C.08** [Repealed, 1978 c 796 s 46]

**352C.09 CONTRIBUTIONS.**

Subdivision 1. Every constitutional officer shall contribute nine percent of total salary by payroll deduction to be paid into the state treasury and deposited in the general fund. In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the contributions of each constitutional officer and credit such contribution to such officer's account.

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

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or survivors thereof under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund as provided above, the former officer or commissioner shall be considered a new member and may reinstate the rights and credit for service forfeited provided all refunds previously taken are repaid with interest at an annual rate of 8.5 percent compounded annually.

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

(4) The provisions of section 352.15 shall apply to the elective state officers retirement plan, chapter 352C.

Subd. 3. **Death refund.** If a constitutional officer who has not received other benefits under this chapter dies and there are no survivor benefits payable under this chapter, a refund plus interest as provided in subdivision 2, clause (1), is payable to the last designated beneficiary named on a form filed with the director before the death of the constitutional officer, or if no designation is on file, the refund is payable to the estate of the deceased constitutional officer.

**History:** 1967 c 700 s 9; 1969 c 399 s 1; 1974 c 445 s 15; 1976 c 329 s 9; 1978 c 796 s 20, 21; 1980 c 614 s 140; 1983 c 286 s 5; 1984 c 564 s 20; 1986 c 444; 1990 c 570 art 12 s 17; 1992 c 598 art 1 s 9; 1993 c 307 art 1 s 33; 1996 c 438 art 1 s 3

**352C.091 ADMINISTRATION.**

Subdivision 1. **Administrative agency and standards.** This chapter must be administered by the Minnesota state retirement system. The elected state officers retirement plan must be administered consistent with this chapter and chapters 356 and 356A.

Subd. 2. Laws 1976, chapter 329, sections 4 to 11 shall apply to constitutional officers in office on and after April 21, 1976.

Subd. 3. Laws 1978, chapter 796, sections 12 to 22 shall apply to constitutional officers and commissioners in office on and after July 1, 1977. Any constitutional officer or commissioner in office on the effective date of Laws 1978, chapter 796 shall be entitled to elect to have the retirement allowance payable computed pro rata under the provisions of Minnesota Statutes 1976, chapter 352C for all service prior to the effective date of Laws 1978, chapter 796 and the provisions of this chapter, as amended by Laws 1978, chapter 796, for all service subsequent to the effective date of Laws 1978, chapter 796, or to have the retirement allowance computed entirely under the provisions of this chapter, as amended by Laws 1978, chapter 796. Any former constitutional officer or commissioner who terminated active service prior to July 1, 1977 but has not yet applied to receive a retirement allowance under the provisions of this chapter shall be entitled to apply for and commence receipt of a retirement allowance at the age specified in section 352C.031, subdivision 1, be covered by the deferred annuities augmentation provision contained in section 352C.04, subdivision 1, and be in-

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cluded in the coverage by more than one retirement system provision set forth in section 352C.051.

**History:** 1976 c 329 s 10; 1978 c 796 s 22; 1986 c 444; 1989 c 319 art 8 s 14

## **352C.10 BENEFIT ADJUSTMENTS.**

Retirement allowances payable to retired constitutional officers pursuant to section 352C.031 and surviving spouse benefits payable pursuant to section 352C.04, shall be adjusted in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota post retirement investment fund to retirees of a participating public pension fund.

**History:** 1982 c 578 art 1 s 3