

## CHAPTER 353

## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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**353.01 DEFINITIONS.**

*[For text of subs 1 to 2b, see M.S.2002]*

Subd. 2d. **Optional membership.** (a) Membership in the association is optional by action of the individual employee for the following public employees who meet the conditions set forth in subdivision 2a:

(1) members of the coordinated plan who are also employees of labor organizations as defined in section 353.017, subdivision 1, for their employment by the labor organization only if they elect to have membership under section 353.017, subdivision 2;

(2) persons who are elected or persons who are appointed to elected positions other than local governing body elected positions who elect to participate by filing a written election for membership;

(3) members of the association who are appointed by the governor to be a state department head and who elect not to be covered by the general state employees retirement plan of the Minnesota State Retirement System under section 352.021;

(4) city managers as defined in section 353.028, subdivision 1, who do not elect to be excluded from membership in the association under section 353.028, subdivision 2; and

(5) employees of the Port Authority of the city of St. Paul who were at least age 45 on January 1, 2003, and who elect to participate by filing a written election for membership.

(b) Membership in the association is optional by action of the governmental subdivision for the employees of the following governmental subdivisions under the conditions specified:

(1) the Minnesota Association of Townships if the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case the status of the association as a participating employer is permanent; and

(2) a county historical society if the county in which the historical society is located, at its option, certifies to the executive director that the employees of the historical society are to be county employees for purposes of retirement coverage under this chapter. The status as a county employee must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society.

(c) For employees who are covered by paragraph (a), clause (1), (2), or (3), or covered by paragraph (b), if the necessary membership election is not made, the employee is excluded from retirement coverage under this chapter. For employees who are covered by paragraph (a), clause (4), if the necessary election is not made, the employee must become a member and have retirement coverage under this chapter. The option to become a member, once exercised under this subdivision, may not be withdrawn until termination of public service as defined under subdivision 11a.

*[For text of subs 3 and 4, see M.S.2002]*

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state

government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association; the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Red Wing Environmental Learning Center, and the Dakota County Agricultural Society.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

*[For text of subs 7 to 40, see M.S.2002]*

**History:** 1Sp2003 c 12 art 4 s 1,2

NOTE: Based on a certificate of local approval filed with the secretary of state on September 29, 2003, the amendment to subdivision 6 of this section is effective September 30, 2003, subject to the certification required in Laws 2003, First Special Session chapter 12, article 4, section 10, paragraph (a).

### 353.028 CITY MANAGERS; ELECTION; DEFERRED COMPENSATION.

*[For text of subd 1, see M.S.2002]*

Subd. 2. **Election.** (a) A city manager may elect to be excluded from membership in the association. The election of exclusion must be made within six months following the commencement of employment, in writing on a form prescribed by the executive director, and must be approved by a resolution of the governing body of the city. The election of exclusion is not effective until it is filed with the executive director. Membership of a city manager in the association ceases on the date the written election is received by the executive director or upon a later date specified. Employee and employer contributions made on behalf of a person exercising the option to be excluded from membership under this section must be refunded in accordance with section 353.27, subdivision 7.

(b) A city manager who has elected exclusion under this subdivision may elect to revoke that action by filing a written notice with the executive director. The notice must be on a form prescribed by the executive director and must be approved by a resolution of the governing body of the city. Membership of the city manager in the association resumes prospectively from the date of the first day of the pay period for which contributions were deducted or, if pay period coverage dates are not provided, the date on which the notice of revocation or contributions are received in the office of the association, provided that the notice of revocation is received by the association within 60 days of the receipt of contributions.

(c) An election under paragraph (b) is irrevocable. Any election under paragraph (a) or (b) must include a statement that the individual will not seek authorization to purchase service credit for any period of excluded service.

*[For text of subs 3 to 5, see M.S.2002]*

**History:** 1Sp2003 c 12 art 4 s 3

**353.05 CUSTODIAN OF FUNDS.**

The commissioner of finance shall be ex officio treasurer of the retirement funds of the association and the general bond of the commissioner of finance to the state shall be so conditioned as to cover all liability for acts as treasurer of these funds. All moneys of the association received by the commissioner of finance shall be set aside in the state treasury to the credit of the proper fund. The commissioner of finance shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the fund. Payments out the fund shall be made only on warrants issued by the commissioner of finance, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the secretary of the State Board of Investment.

*History: 2003 c 112 art 2 s 50*

**353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS.**

Subdivision 1. **Exemption; exceptions.** No money, annuity, or benefit provided for in this chapter is assignable or subject to execution, levy, attachment, garnishment, or legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111.

*[For text of subs 2 and 3, see M.S.2002]*

*History: 2003 c 127 art 3 s 19*