

352.115 RETIREMENT ANNUITY.

Subdivision 1. **Age and service requirements.** After separation from state service, any employee (1) who has attained the age of at least 55 years and who is entitled to credit for at least three years allowable service, or (2) who has received credit for at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

Subd. 2. **Normal retirement annuity.** The retirement annuity hereunder payable at normal retirement age or thereafter must be computed in accordance with the applicable provisions of the formula stated in subdivision 3, on the basis of the employee's average salary for the period of allowable service. This retirement annuity is known as the "normal" retirement annuity.

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 section 352.01, subdivision 14a, multiplied by the percent specified in section 356.315, subdivision 1, per year of allowable service for the first ten years and the percent specified in section 356.315, 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 section 352.01, subdivision 14a, multiplied by the percent specified in section 356.315, 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.

Subd. 4. [Repealed, 1983 c 128 s 36]

Subd. 5. [Repealed, 1983 c 128 s 36]

Subd. 6. [Repealed, 1965 c 230 s 18]

Subd. 7. **Application for annuity.** Application for annuity or optional annuity payment may be made by the employee at time of retirement, or by someone acting in behalf of the employee, upon proof of authority satisfactory to the director.

Subd. 8. **Accrual of annuity.** State employees shall apply for an annuity. The application must not be made more than 90 days before the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled the legal requirements for an annuity, the director shall authorize the annuity payment in accordance with this chapter and payment must be made as authorized. An annuity shall begin to accrue no earlier than 180 days before the date the application is filed with the director, but not before the day following the termination of state service or before the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, the spouse is entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor is entitled to the annuity for the calendar month in which the retired employee died.

Subd. 9. **Annuities payable monthly.** All annuities, and disability benefits authorized by this chapter, must be paid in equal monthly installments and must not be increased, decreased, or revoked except as provided in this chapter.

Subd. 10. **Reemployment of annuitant.** (a) If any retired employee again becomes entitled to receive salary or wages from the state, or any employer who employs state employees as that term is defined in section 352.01, subdivision 2, other than salary or wages received as a temporary employee of the legislature during a legislative session, the annuity or retirement allowance shall cease when the retired employee has earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403, in any calendar year. If the retired employee has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the retired employee shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) The balance of the annual retirement annuity after cessation must be handled or disposed of as provided in section 356.47.

(c) The annuity must be resumed when state service ends, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of that calendar year, and payment must again end when the retired employee has earned the applicable reemployment

earnings maximum specified in this subdivision. If the retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance must be resumed during the period of sick leave.

(d) No payroll deductions for the retirement fund may be made from the earnings of a reemployed retired employee.

(e) No change shall be made in the monthly amount of an annuity or retirement allowance because of the reemployment of an annuitant.

Subd. 11. **Accrued annuity at death.** Any annuity accrued before the death of a retired employee, and any disability benefit accrued before the death of a disabled employee shall be paid to the beneficiary whom the retired employee or the disabled employee had last designated. If (1) no beneficiary has been so designated, or (2) the designated beneficiary dies before making claim for payment of an annuity or benefit, payment must be made 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 legal representative of the retired employee or disabled employee. If the designated beneficiary, surviving spouse, or legal representative entitled to the annuity does not apply for payment within five years from the date of death of the retired employee or disabled employee, the annuity or disability benefit which had accrued at the time of death must be credited to and become a part of the retirement fund.

Subd. 12. **Death, return of warrants.** If at the time of death a retired employee, a disabled employee, or a survivor has in possession commissioner of finance's warrants covering a retirement annuity, disability benefit or survivor benefit from the retirement fund, in the absence of probate proceedings, and upon the return of the warrants for cancellation, payment of the accrued annuity or benefit, shall be made as provided in subdivision 11, or 352.12, subdivision 4. Payments made under this subdivision shall be a bar to recovery by any other person or persons.

Subd. 13. [Repealed, 1981 c 224 s 276]

History: 1957 c 928 s 9; Ex1959 c 6 s 7,9,20; Ex1961 c 67 s 10; 1963 c 383 s 26-32; 1963 c 814 s 1; 1965 c 230 s 3-6; Ex1967 c 57 s 16; 1969 c 893 s 7; 1971 c 12 s 4; 1973 c 35 s 53; 1973 c 221 s 4; 1973 c 492 s 14; 1973 c 653 s 28-30; 1975 c 271 s 6; 1975 c 359 s 23; 1975 c 368 s 21-23; 1976 c 134 s 78; 1980 c 342 s 3; 1980 c 607 art 14 s 33; 1981 c 224 s 48; 1983 c 128 s 8; 1984 c 564 s 8,9; 1984 c 574 s 7; 1986 c 444; 1987 c 229 art 6 s 1; 1987 c 372 art 9 s 2; 1989 c 319 art 13 s 7-9; 1990 c 570 art 10 s 5; art 12 s 6; 1993 c 307 art 1 s 11; 1997 c 233 art 1 s 19; 2000 c 461 art 2 s 2; 2002 c 392 art 11 s 52; 1Sp2005 c 8 art 1 s 3,4