

## CHAPTER 356

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### 356.001 PURPOSE OF PUBLIC PLANS.

Subdivision 1. **Exclusive benefit of members and beneficiaries.** (a) The public plans and funds specified in subdivision 4 are established to provide for the retirement of their members and to provide funds for the beneficiaries of members in the event of death of a member.

(b) The public plans and funds are established and must be maintained for the exclusive benefit of the members and the beneficiaries of the members. Except as provided in subdivisions 2

and 3, no part of the moneys of the plans and funds may revert to the plan or fund or be used for or diverted to purposes other than the exclusive benefit of the members or their beneficiaries.

Subd. 2. **Allowable expenses.** The necessary, reasonable, and direct expenses of maintaining, protecting, and administering the public plan or fund, as authorized in the laws governing the plan or fund, must be considered as expenditures for the exclusive benefit of the members or their beneficiaries.

Subd. 3. **Effect of amendments or termination.** (a) If a public plan or fund defined in subdivision 4 is terminated or the plan or fund provisions are amended, no part of the moneys held in the plan or fund may be used for or diverted to any purpose other than the exclusive benefit of the members or their beneficiaries, except as provided in this subdivision.

(b) If a plan or fund is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member must be calculated as of the date of termination and the funding ratio of the plan or fund must be applied to the accrued benefit of each affected member.

(c) The board of trustees of the plan or fund shall, as soon as administratively feasible following the termination, pay each eligible member or beneficiary on behalf of a member the amount in the member's account in a lump sum. In the case of a member whose whereabouts is unknown, the board shall notify the member at the last known address by certified mail with return receipt requested advising the member of the member's right to a pending distribution. If the member cannot be located in this manner, the board shall establish a custodial account for the member's benefit in a federally insured bank, savings association, or credit union in which the member's account balance must be deposited. If the board receives proof of death of a member that is satisfactory to the board, the account balance must be paid to the beneficiary of the member.

Subd. 4. **Covered plans and funds.** This section applies to all public pension and retirement plans and funds established under the laws of the state of Minnesota that receive contributions from moneys derived from taxation.

Subd. 5. **Construction.** Nothing contained in this section may be construed to authorize, or otherwise imply, a legislative policy or intent favoring the termination of any plan or fund to which this section applies.

**History:** 1983 c 286 s 23; 1995 c 202 art 1 s 25; 2002 c 392 art 11 s 1

**356.01-356.14** [Obsolete]

**356.15** [Renumbered 9.28]

**356.16** [Obsolete]

**356.17** [Renumbered 3.30]

**356.18** [Repealed, 1994 c 528 art 3 s 34]

**356.19** [Repealed, 2002 c 392 art 11 s 53]

**356.195 SERVICE CREDIT PURCHASE PROCEDURES FOR STRIKE PERIODS.**

Subdivision 1. **Covered plans.** This section applies to all defined benefit plans specified in section 356.30, subdivision 3, except clause (10).

Subd. 2. **Purchase procedure for strike periods.** (a) An employee covered by a plan specified in subdivision 1 may purchase allowable service credit in the applicable plan for any period of time during which the employee was on a public employee strike without pay, not to exceed a period of one year, if the employee makes a payment in lieu of salary deductions as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the applicable pension plan executive director within one year from the end of the strike, the payment amount is equal to the applicable employee and employer contribution rates specified in law for the applicable plan during the strike period, applied to the employee's rate of salary in effect at the conclusion of the strike for the period of the strike without pay, plus compound interest at a monthly rate of 0.71 percent from the last day of the strike period until the date payment is received.

(c) If payment is received by the applicable pension fund director after one year and before five years from the end of the strike, the payment amount is the amount determined under section 356.551.

(d) Payments may not be made more than five years after the end of the strike.

**History:** *1Sp2005 c 8 art 2 s 1; 2007 c 134 art 2 s 42*

## **PUBLIC PENSION PLAN ACTUARIAL, FINANCIAL, AND INVESTMENT REPORTING**

### **356.20 PUBLIC PENSION FUND FINANCIAL REPORTING REQUIREMENT.**

Subdivision 1. **Report required.** (a) The governing or managing board or the chief administrative officer of each public pension and retirement plan enumerated in subdivision 2 shall annually prepare and file a financial report following the close of each fiscal year.

(b) This requirement also applies to any plan or fund which may be a successor to any organization so enumerated or to any newly formed retirement plan, fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations.

(c) The report must be prepared under the supervision and at the direction of the management of each plan and must be signed by the presiding officer of the managing board of the plan and the chief administrative official of the plan.

Subd. 2. **Covered public pension plans and funds.** This section applies to the following public pension plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System;
- (2) the general employees retirement plan of the Public Employees Retirement Association;
- (3) the Teachers Retirement Association;
- (4) the State Patrol retirement plan;
- (5) the St. Paul Teachers Retirement Fund Association;
- (6) the Duluth Teachers Retirement Fund Association;
- (7) the University of Minnesota faculty retirement plan;
- (8) the University of Minnesota faculty supplemental retirement plan;

- (9) the judges retirement fund;
- (10) a police or firefighter's relief association specified or described in section 69.77, subdivision 1a;
- (11) a volunteer firefighter relief association governed by section 69.771, subdivision 1;
- (12) the public employees police and fire plan of the Public Employees Retirement Association;
- (13) the correctional state employees retirement plan of the Minnesota State Retirement System;
- (14) the local government correctional service retirement plan of the Public Employees Retirement Association; and
- (15) the voluntary statewide lump-sum volunteer firefighter retirement plan.

Subd. 3. **Filing requirement.** The financial report is a public record. A copy of the report or a synopsis of the report containing the information required by this section must be made available annually to each member of the fund and to the governing body of each governmental subdivision of the state which makes employers contributions thereto or in whose behalf taxes are levied for the employers' contribution. A signed copy of the report must be delivered to the executive director of the Legislative Commission on Pensions and Retirement and to the Legislative Reference Library not later than six months after the close of each fiscal year or one month following the completion and delivery to the retirement fund of the actuarial valuation report of the fund by the actuary retained under section 356.214, if applicable, whichever is later.

Subd. 4. **Contents of financial report.** (a) The financial report required by this section must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited.

(b) The report must include, as part of its exhibits or its footnotes, an actuarial disclosure item based on the actuarial valuation calculations prepared by the actuary retained under section 356.214 or by the actuary retained by the retirement fund or plan, whichever applies, according to applicable actuarial requirements enumerated in section 356.215, and specified in the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement. The actuarial value of assets, the actuarial accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund or plan must be disclosed. The disclosure item must contain a declaration by the actuary retained under section 356.214 or the actuary retained by the fund or plan, whichever applies, specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and in accordance with the most recent applicable standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(c) The report must contain an itemized exhibit describing the administrative expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) personnel expenses;
- (2) communication-related expenses;
- (3) office building and maintenance expenses;
- (4) professional services fees; and

(5) other expenses.

(d) The report must contain an itemized exhibit describing the investment expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) internal investment-related expenses; and
- (2) external investment-related expenses.

(e) Any additional statements or exhibits or more detailed or subdivided itemization of a disclosure item that will enable the management of the plan to portray a true interpretation of the plan's financial condition must be included in the additional statements or exhibits.

Subd. 4a. **Financial report for police or firefighters relief association.** For any police or firefighter's relief association referred to in subdivision 2, clause (10) or (11), a financial report that is duly filed and that meets the requirements of section 69.051 is deemed to have met the requirements of subdivision 4.

Subd. 5. [Repealed, 1984 c 383 s 5]

**History:** 1965 c 359 s 1; 1969 c 249 s 1; 1971 c 7 s 1-3; 1971 c 197 s 4; 1971 c 281 s 1,2; 1975 c 192 s 1,2; 1978 c 563 s 6-8; 1979 c 50 s 49; 1981 c 37 s 2; 1981 c 224 s 168; 1981 c 298 s 11; 1984 c 564 s 42; 1Sp1985 c 7 s 26; 1986 c 359 s 26; 1987 c 259 s 52-54; 1987 c 372 art 1 s 19; 1991 c 269 art 3 s 2; 1995 c 141 art 3 s 20; 1997 c 233 art 1 s 56; 1999 c 222 art 2 s 16; 2002 c 392 art 11 s 2-6; 1Sp2005 c 8 art 3 s 6; 2006 c 271 art 3 s 47; 2006 c 277 art 3 s 31; 2008 c 349 art 10 s 2-6; 2009 c 169 art 9 s 26; 2010 c 359 art 12 s 23

**356.21** [Repealed, 1975 c 192 s 7]

**356.211** [Repealed, 1975 c 192 s 7]

**356.212** [Repealed, 1975 c 192 s 7]

### **356.214 ACTUARIAL VALUATION PREPARATION.**

Subdivision 1. **Actuary retention.** (a) The governing board or managing or administrative official of each public pension plan and retirement fund or plan enumerated in paragraph (b) shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services. The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c).

(b) Actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;
- (2) the general state employees retirement plan, Minnesota State Retirement System;
- (3) the correctional employees retirement plan, Minnesota State Retirement System;
- (4) the State Patrol retirement plan, Minnesota State Retirement System;
- (5) the judges retirement plan, Minnesota State Retirement System;
- (6) the general employees retirement plan, Public Employees Retirement Association, including the MERF division;
- (7) the public employees police and fire plan, Public Employees Retirement Association;

(8) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;  
(9) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;  
(10) the legislators retirement plan, Minnesota State Retirement System;  
(11) the elective state officers retirement plan, Minnesota State Retirement System; and  
(12) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contracts must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contracts must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (6), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) the rate of return on investments based on the current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

(d) The actuary shall annually prepare a report to the governing or managing board or administrative official and the legislature, summarizing the results of the actuarial valuation calculations. The actuary shall include with the report any recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, the governing or managing board or administrative official shall direct the actuary to prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (7), (8), (9), (10), (11), or (12), in the manner provided for in the standards for actuarial work adopted by the commission.

Subd. 2. [Repealed, 2008 c 349 art 10 s 18]

Subd. 3. **Reporting to commission.** A copy of the actuarial valuations and experience studies prepared by the actuary retained under a contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Subd. 4. **Commission to contract with auditing actuary.** (a) The Legislative Commission on Pensions and Retirement may contract with an established actuarial consulting firm to audit or review the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the governing or managing boards, or administrative officials of each

of the plans or funds listed in subdivision 1, paragraph (b). The principal representative from the actuarial consulting firm so engaged must be an approved actuary under section 356.215, subdivision 1, paragraph (c).

(b) Any actuarial consulting firm retained under paragraph (a) will, according to a schedule determined under an agreement with the Legislative Commission on Pensions and Retirement, audit the valuation reports submitted by the actuary retained by each governing or managing board or administrative official, and provide an assessment of the reasonableness, reliability, and areas of concern or potential improvement in the specific reports reviewed, the procedures utilized by any particular reporting actuary, or general modifications to standards, procedures, or assumptions that the commission may wish to consider. Actuarial firms retained by the retirement funds must cooperate fully and make available any data or other materials necessary for the commission-retained actuary to conduct an adequate review and to render advice to the commission.

**History:** 2004 c 223 s 6; 2006 c 277 art 3 s 32; 2008 c 349 art 10 s 7-9; 2010 c 359 art 12 s 24

### **356.215 ACTUARIAL VALUATIONS AND EXPERIENCE STUDIES.**

Subdivision 1. **Definitions.** (a) For the purposes of sections 3.85 and 356.20 to 356.23, each of the terms in the following paragraphs has the meaning given.

(b) "Actuarial valuation" means a set of calculations prepared by an actuary retained under section 356.214 if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(c) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who is a fellow in the Society of Actuaries.

(d) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual, if the benefit plan is governed by section 69.773, or over the earnings of the individual, if the benefit plan is governed by any other law, between the entry age and the assumed exit age, with the portion of the actuarial present value which is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(e) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(f) "Actuarial value of assets" means:

(1) For the July 1, 2009, actuarial valuation, the market value of all assets as of June 30, 2009, reduced by:



(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2006, and June 30, 2005, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2005;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;

(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(iv) 80 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008; and

(v) if applicable, 80 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(2) For the July 1, 2010, actuarial valuation, the market value of all assets as of June 30, 2010, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota

postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009; and

(v) if applicable, 60 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(3) For the July 1, 2011, actuarial valuation, the market value of all assets as of June 30, 2011, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iii) 60 percent of the difference between the actual net change in the market value of the total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of the total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010; and

(v) if applicable, 40 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(4) For the July 1, 2012, actuarial valuation, the market value of all assets as of June 30, 2012, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June

30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2012, and June 30, 2011, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2011; and

(v) if applicable, 20 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(5) For the July 1, 2013, and following actuarial valuations, the market value of all assets as of the preceding June 30, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred three years earlier and the June 30 that occurred four years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred two years earlier and the June 30 that occurred three years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred one year earlier and the June 30 that occurred two years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier; and

(iv) 80 percent of the difference between the actual net change in the market value of total assets between the most recent June 30 and the June 30 that occurred one year earlier and the computed increase in the market value of total assets over that fiscal year period if the assets

had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier.

(g) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of the actuarial value of assets and the present value of future normal costs.

(h) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

**Subd. 2. Requirements.** (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax-supported retirement and pension plans for public employees. To achieve this goal, the actuary retained under section 356.214 shall prepare annual actuarial valuations of the retirement plans enumerated in section 356.214, subdivision 1, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section 356.214, subdivision 1, paragraph (b), clauses (1), (2), and (6).

(b) The governing or managing board or administrative officials of each public pension and retirement plan enumerated in section 356.20, subdivision 2, clauses (8), (10), and (11), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire relief association to which section 356.216 applies.

Subd. 2a. [Repealed, 2008 c 349 art 10 s 18]

**Subd. 3. Reports.** (a) The actuarial valuations required annually must be made as of the beginning of each fiscal year.

(b) Two copies of the completed valuation must be delivered to the executive director of the Legislative Commission on Pensions and Retirement, to the commissioner of management and budget, and to the Legislative Reference Library. The copies of the actuarial valuation must be filed with the executive director of the Legislative Commission on Pensions and Retirement, the commissioner of management and budget, and the Legislative Reference Library no later than the last day of the sixth month occurring after the end of the previous fiscal year.

(c) Two copies of a quadrennial experience study must be filed with the executive director of the Legislative Commission on Pensions and Retirement, with the commissioner of management and budget, and with the Legislative Reference Library, not later than the last day of the 12th month occurring after the end of the last fiscal year of the four-year period which the experience study covers.

(d) For actuarial valuations and experience studies prepared at the direction of the Legislative Commission on Pensions and Retirement, one copy of the document must be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

Subd. 4. **Actuarial valuation; contents.** (a) The actuarial valuation must be made in conformity with the requirements of the definition contained in subdivision 1 and the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) The actuarial valuation must measure all aspects of the benefit plan of the fund in accordance with changes in benefit plans, if any, and salaries reasonably anticipated to be in force during the ensuing fiscal year. The actuarial valuation must be prepared in accordance with the entry age actuarial cost method. The actuarial valuation required under this section must include the information required in subdivisions 5 to 15.

Subd. 4a. [Renumbered subd 5]

Subd. 4b. [Renumbered subd 6]

Subd. 4c. [Renumbered subd 7]

Subd. 4d. [Renumbered subd 8]

Subd. 4e. [Renumbered subd 9]

Subd. 4f. [Renumbered subd 10]

Subd. 4g. [Renumbered subd 11]

Subd. 4h. [Renumbered subd 12]

Subd. 4i. [Renumbered subd 13]

Subd. 4j. [Renumbered subd 14]

Subd. 4k. [Renumbered subd 15]

Subd. 5. MS 2000 [Renumbered subd 16]

Subd. 5. **Normal cost.** For a fund providing benefits in whole or in part under a defined benefit plan, the actuarial valuation must indicate the level normal cost of the benefits provided under the laws governing the fund as of the date of the valuation, calculated in accordance with the entry age actuarial cost method. The normal cost must be expressed as a level percentage of the present value of future payrolls of the active participants of the fund as of the date of the valuation.

Subd. 6. MS 2000 [Renumbered subd 17]

Subd. 6. **Accrued liability.** For a fund providing benefits under a defined benefit plan, the actuarial valuation must contain an exhibit indicating the actuarial accrued liabilities of the fund. This figure is the present value of future benefits reduced by the present value of future normal costs, calculated in accordance with the entry age actuarial cost method.

Subd. 7. MS 2000 [Renumbered subd 18]

Subd. 7. **Defined contribution plan accumulations.** For each fund providing benefits under a money purchase or defined contribution plan, the actuarial valuation must contain an exhibit indicating the member contributions accumulated at interest, as apportioned to members accounts, to the date of the valuation. These accumulations must be separately tabulated in a manner which properly reflects any differences in money purchase or defined contribution annuity rates which may apply.

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following

postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
Minneapolis Police Relief Association	6.0	6.0
Fairmont Police Relief Association	5.0	5.0
Minneapolis Fire Department Relief Association	6.0	6.0
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

(b) Before July 1, 2010, the actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
legislators retirement plan	5.0%
judges retirement plan	4.0
Minneapolis Police Relief Association	4.0
Fairmont Police Relief Association	3.5
Minneapolis Fire Department Relief Association	4.0
Virginia Fire Department Relief Association	3.5

## Bloomington Fire Department Relief Association

4.0

(2) age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

plan	future salary increase assumption
general state employees retirement plan	select calculation and assumption A
correctional state employees retirement plan	assumption G
State Patrol retirement plan	assumption F
public employees police and fire fund retirement plan	assumption B
local government correctional service retirement plan	assumption F
teachers retirement plan	assumption C
Duluth teachers retirement plan	assumption D
St. Paul teachers retirement plan	assumption E

The select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated select period is five years and the designated integer is five for the general state employees retirement plan. The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, the public employees police and fire plan, and the local government correctional service plan; (2) 0.6 percent for the general state employees retirement plan; and (3) 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.

The ultimate future salary increase assumption is:

age	A	B	C	D	E	F	G
16	5.95%	11.00%	7.70%	8.00%	6.90%	7.7500%	7.2500%
17	5.90	11.00	7.65	8.00	6.90	7.7500	7.2500
18	5.85	11.00	7.60	8.00	6.90	7.7500	7.2500
19	5.80	11.00	7.55	8.00	6.90	7.7500	7.2500
20	5.75	11.00	5.50	6.90	6.90	7.7500	7.2500
21	5.75	11.00	5.50	6.90	6.90	7.1454	6.6454
22	5.75	10.50	5.50	6.90	6.90	7.0725	6.5725
23	5.75	10.00	5.50	6.85	6.85	7.0544	6.5544
24	5.75	9.50	5.50	6.80	6.80	7.0363	6.5363
25	5.75	9.00	5.50	6.75	6.75	7.0000	6.5000
26	5.75	8.70	5.50	6.70	6.70	7.0000	6.5000
27	5.75	8.40	5.50	6.65	6.65	7.0000	6.5000
28	5.75	8.10	5.50	6.60	6.60	7.0000	6.5000
29	5.75	7.80	5.50	6.55	6.55	7.0000	6.5000
30	5.75	7.50	5.50	6.50	6.50	7.0000	6.5000
31	5.75	7.30	5.50	6.45	6.45	7.0000	6.5000
32	5.75	7.10	5.50	6.40	6.40	7.0000	6.5000
33	5.75	6.90	5.50	6.35	6.35	7.0000	6.5000
34	5.75	6.70	5.50	6.30	6.30	7.0000	6.5000
35	5.75	6.50	5.50	6.25	6.25	7.0000	6.5000
36	5.75	6.30	5.50	6.20	6.20	6.9019	6.4019
37	5.75	6.10	5.50	6.15	6.15	6.8074	6.3074
38	5.75	5.90	5.40	6.10	6.10	6.7125	6.2125
39	5.75	5.70	5.30	6.05	6.05	6.6054	6.1054
40	5.75	5.50	5.20	6.00	6.00	6.5000	6.0000
41	5.75	5.40	5.10	5.90	5.95	6.3540	5.8540
42	5.75	5.30	5.00	5.80	5.90	6.2087	5.7087
43	5.65	5.20	4.90	5.70	5.85	6.0622	5.5622
44	5.55	5.10	4.80	5.60	5.80	5.9048	5.4078
45	5.45	5.00	4.70	5.50	5.75	5.7500	5.2500
46	5.35	4.95	4.60	5.40	5.70	5.6940	5.1940
47	5.25	4.90	4.50	5.30	5.65	5.6375	5.1375
48	5.15	4.85	4.50	5.20	5.60	5.5822	5.0822



49	5.05	4.80	4.50	5.10	5.55	5.5404	5.0404
50	4.95	4.75	4.50	5.00	5.50	5.5000	5.0000
51	4.85	4.75	4.50	4.90	5.45	5.4384	4.9384
52	4.75	4.75	4.50	4.80	5.40	5.3776	4.8776
53	4.65	4.75	4.50	4.70	5.35	5.3167	4.8167
54	4.55	4.75	4.50	4.60	5.30	5.2826	4.7826
55	4.45	4.75	4.50	4.50	5.25	5.2500	4.7500
56	4.35	4.75	4.50	4.40	5.20	5.2500	4.7500
57	4.25	4.75	4.50	4.30	5.15	5.2500	4.7500
58	4.25	4.75	4.60	4.20	5.10	5.2500	4.7500
59	4.25	4.75	4.70	4.10	5.05	5.2500	4.7500
60	4.25	4.75	4.80	4.00	5.00	5.2500	4.7500
61	4.25	4.75	4.90	3.90	5.00	5.2500	4.7500
62	4.25	4.75	5.00	3.80	5.00	5.2500	4.7500
63	4.25	4.75	5.10	3.70	5.00	5.2500	4.7500
64	4.25	4.75	5.20	3.60	5.00	5.2500	4.7500
65	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
66	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
67	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
68	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
69	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
70	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
71	4.25		5.20				

## (3) service-related ultimate future salary increase assumption

service length	general employees retirement plan of the Public Employees Retirement Association
1	12.03%
2	8.90
3	7.46
4	6.58
5	5.97
6	5.52
7	5.16
8	4.87

9	4.63
10	4.42
11	4.24
12	4.08
13	3.94
14	3.82
15	3.70
16	3.60
17	3.51
18	3.50
19	3.50
20	3.50
21	3.50
22	3.50
23	3.50
24	3.50
25	3.50
26	3.50
27	3.50
28	3.50
29	3.50
30 or more	3.50

(c) Before July 2, 2010, the actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan	4.50%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00
general employees retirement plan of the Public Employees Retirement Association	4.00

public employees police and fire retirement plan	4.50
local government correctional service retirement plan	4.50
teachers retirement plan	4.50
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

(d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

**Subd. 9. Other assumptions.** The actuarial valuation must use assumptions concerning mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor. These assumptions must be set at levels consistent with those determined in the most recent quadrennial experience study completed under subdivision 16, if required, or representative of the best estimate of future experience, if a quadrennial experience study is not required. The actuarial valuation must contain an exhibit indicating any actuarial assumptions used in preparing the valuation report.

**Subd. 10. Public sector accounting disclosure information.** The actuarial valuation must contain those actuarial calculations that are necessary to allow the retirement plan administration or participating employing units to prepare the pension-related portions of annual financial reporting that meet generally accepted accounting principles for the public sector.

**Subd. 11. Amortization contributions.** (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation of the retirement plan must contain an exhibit for financial reporting purposes indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability and must contain an exhibit for contribution determination purposes indicating the additional contribution sufficient to amortize the unfunded actuarial accrued liability. For the retirement plans listed in subdivision 8, paragraph (c), but excluding the MERF division of the Public Employees Retirement Association, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared, assuming annual payroll growth at the applicable percentage rate set forth in subdivision 8, paragraph (c). For all other retirement plans and for the MERF division of the Public Employees Retirement Association, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any retirement plan other than the general state employees retirement plan of the Minnesota State Retirement System or a retirement plan governed by paragraph (d), (e), (f), (g), (h), (i), or (j), if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by itself or by themselves without inclusion of any other items of increase or decrease

produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding is the first actuarial valuation date occurring after June 1, 2020.

(c) For any retirement plan other than the general employees retirement plan of the Public Employees Retirement Association, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by itself or by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 8 in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 8 in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 8 in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the MERF division of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(e) For the general employees retirement plan of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(f) For the Teachers Retirement Association, the established date for full funding is June 30, 2037.

(g) For the correctional state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2038.

(h) For the judges retirement plan, the established date for full funding is June 30, 2038.

(i) For the public employees police and fire retirement plan, the established date for full funding is June 30, 2038.

(j) For the St. Paul Teachers Retirement Fund Association, the established date for full funding is June 30 of the 25th year from the valuation date. In addition to other requirements of this chapter, the annual actuarial valuation must contain an exhibit indicating the funded ratio and the deficiency or sufficiency in annual contributions when comparing liabilities to the market value of the assets of the fund as of the close of the most recent fiscal year.

(k) For the general state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2040.

(l) For the retirement plans for which the annual actuarial valuation indicates an excess of valuation assets over the actuarial accrued liability, the valuation assets in excess of the actuarial accrued liability must be recognized as a reduction in the current contribution requirements by an amount equal to the amortization of the excess expressed as a level percentage of pay over a 30-year period beginning anew with each annual actuarial valuation of the plan.

Subd. 12. **Actuarial gains and losses.** The actuarial valuation must contain an exhibit consisting of an analysis by the actuary explaining the net increase or decrease in the unfunded actuarial accrued liability since the last valuation. The explanation must subdivide the net increase or decrease in the unfunded actuarial accrued liability into at least the following parts:

(1) increases or decreases in the unfunded actuarial accrued liability because of changes in benefits;

(2) increases and decreases in the unfunded actuarial accrued liability because of changes in actuarial assumptions;

(3) increases or decreases in the unfunded actuarial accrued liability attributable to actuarial gains or losses resulting from any experience deviations from the assumptions on which the valuation is based, as follows:

(i) actual investment earnings;

(ii) actual postretirement mortality rates;

(iii) actual salary increase rates; and

(iv) the remainder of the increase or decrease not attributable to any separate source;

(4) increases or decreases in unfunded actuarial accrued liability because of other reasons, including the effect of any amortization contribution paid or additional amortization contribution previously calculated but unpaid; and

(5) increases or decreases in unfunded actuarial accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.

Subd. 13. **Membership tabulation.** (a) The actuarial valuation must contain a tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation must be made for each general benefit program.

(b) The tabulations must be prepared by the administration of the pension fund and must contain the following information:

(1) Active members	Number
As of last valuation date	
New entrants	
Total	
Separations from active service	
Refund of contributions	
Separation with deferred annuity	
Separation with neither refund nor deferred annuity	
Disability	
Death	
Retirement with service annuity	
Total separations	
As of current valuation date	
(2) Annuitants	Number
As of last valuation date	
New entrants	
Total	
Terminations	
Deaths	
Other	
Total Terminations	
As of current valuation date	

(c) The tabulation required under paragraph (b), clause (2), must be made separately for each of the following classes of benefit recipients:

- (1) service retirement annuitants;
- (2) disability benefit recipients;
- (3) survivor benefit recipients; and
- (4) deferred annuitants.

Subd. 14. **Administrative expenses.** (a) The actuarial valuation must indicate the administrative expenses of the fund, expressed both in dollars and as a percentage of covered payroll.

(b) Administrative expenses are the costs incurred by the retirement plans in the course of operating the plan, excluding investment expenses. Investment expenses include all expenses incurred for the retention of professional external investment managers and professional investment consultants, custodian bank fees, investment transaction costs, and the costs incurred by the retirement plans to manage investment portfolios or assets internally. Investment expenses must be deducted from the investment return used in the actuarial valuation, and must not be included in administrative expenses when calculating the allowance for expenses.

Subd. 15. **Benefit plan summary.** The actuarial valuation must contain a summary of the principal provisions of the benefit plan upon which the valuation is based.

Subd. 16. **Quadrennial experience study; contents.** A quadrennial experience study, if required, must contain an analysis by the approved actuary of the experience of the fund and a comparison of the experience with the actuarial assumptions on which the most recent actuarial valuation of the retirement fund was based.

Subd. 17. **Actuarial services by approved actuaries.** (a) The actuarial valuation or quadrennial experience study must be made and any actuarial consulting services for a retirement fund or plan must be provided by an approved actuary. The actuarial valuation or quadrennial experience study must include a signed written declaration that it has been prepared according to sections 356.20 to 356.23 and according to the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) Actuarial valuations or experience studies prepared by an approved actuary retained by a retirement fund or plan must be submitted to the Legislative Commission on Pensions and Retirement within ten days of the submission of the document to the retirement fund or plan.

Subd. 18. **Establishment of actuarial assumptions.** (a) Before July 2, 2010, the actuarial assumptions used for the preparation of actuarial valuations under this section that are other than preretirement interest, postretirement interest, salary increase, and payroll increase may be changed only with the approval of the Legislative Commission on Pensions and Retirement or after a period of one year has elapsed since the date on which the proposed assumption change or changes were received by the Legislative Commission on Pensions and Retirement without commission action.

(b) After July 1, 2010, the actuarial assumptions used for the preparation of actuarial valuations under this section that are other than postretirement interest and preretirement interest may be changed only with the approval of the Legislative Commission on Pensions and Retirement or after a period of one year has elapsed since the date on which the proposed assumption change or changes were received by the Legislative Commission on Pensions and Retirement without commission action.

(c) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the joint retirement systems under section 356.214 or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

**History:** 1975 c 192 s 3; 1978 c 563 s 9,10; 1979 c 184 s 1; 1981 c 224 s 169; 1984 c 564 s 43; 1Sp1985 c 7 s 27; 1986 c 359 s 26; 1986 c 458 s 20; 1987 c 259 s 55; 1989 c 319 art 13 s 90,91; 1991 c 199 art 2 s 24; 1991 c 269 art 3 s 3-19; 1991 c 345 art 4 s 3,4; 1993 c 336 art 4 s 1; 1993 c 352 s 7; 1995 c 141 art 3 s 14,15; 1997 c 233 art 1 s 57-59; 1997 c 241 art 4 s 1; 1998 c 390 art 8 s 2; 1999 c 222 art 4 s 14; 2000 c 461 art 1 s 3-6; 1Sp2001 c 10 art 11 s 18; 2002 c 392

*art 9 s 1; art 11 s 7,53; 2004 c 223 s 7,8; 1Sp2005 c 8 art 11 s 2; 2006 c 271 art 3 sec 47; 2006 c 277 art 3 s 33,34; 2008 c 204 s 41; 2008 c 349 art 10 s 10-15; 2009 c 86 art 1 s 90; 2009 c 101 art 2 s 109; 2009 c 169 art 1 s 70,71; 2010 c 359 art 1 s 68,69; art 9 s 1; art 11 s 19,20*

### **356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.**

(a) The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution, except that if the actuarial report for the Bloomington Fire Department Relief Association indicates an unfunded actuarial accrued liability, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later, and if subsequent actuarial valuations for the Bloomington Fire Department Relief Association determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later and except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, paragraph (b) or (f), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) for active members:

1. retirement benefits;
2. disability benefits;
3. refund liability due to death or withdrawal;
4. survivors' benefits;

(ii) for deferred annuitants' benefits;

(iii) for former members without vested rights;

(iv) for annuitants;



1. retirement annuities;
2. disability annuities;
3. surviving spouses' annuities;
4. surviving children's annuities;

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

**History:** 1978 c 563 s 11; 1981 c 224 s 170; 1983 c 71 s 2; 1Sp1985 c 7 s 28; 1986 c 359 s 14; 1Sp1986 c 3 art 1 s 46; 1987 c 259 s 56; 1989 c 319 art 19 s 4; 1991 c 199 art 1 s 91; 2002 c 392 art 1 s 8; art 11 s 8; 1Sp2005 c 8 art 11 s 3; 2010 c 359 art 15 s 3

**356.2165** [Repealed, 2009 c 169 art 11 s 7]

**356.217** [Repealed, 2004 c 223 s 11]

**356.218** [Repealed, 1997 c 241 art 10 s 7]

### **356.219 DISCLOSURE OF PUBLIC PENSION PLAN INVESTMENT PORTFOLIO AND PERFORMANCE INFORMATION.**

Subdivision 1. **Report required.** (a) Except as indicated in subdivision 4, the State Board of Investment, on behalf of the public pension funds and programs for which it is the investment authority, and any Minnesota public pension plan that is not fully invested through the State Board of Investment, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, shall report the information specified in subdivision 3 to the state auditor. The state auditor may prescribe a form or forms for the purposes of the reporting requirements contained in this section.

(b) A local police or firefighters relief association governed by section 69.77 or sections 69.771 to 69.775 is fully invested during a given calendar year for purposes of this section if all assets of the applicable pension plan beyond sufficient cash equivalent investments to cover six months expected expenses are invested under section 11A.17. The board of any fully invested public pension plan remains responsible for submitting investment policy statements and subsequent revisions as required by subdivision 3, paragraph (a).

(c) For purposes of this section, the State Board of Investment is considered to be the investment authority for any Minnesota public pension fund required to be invested by the State Board of Investment under section 11A.23, or for any Minnesota public pension fund authorized to invest in the supplemental investment fund under section 11A.17 and which is fully invested by the State Board of Investment.

Subd. 2. **Asset class definition.** (a) For purposes of this section, "asset class" means any of the following asset groupings as authorized in applicable law, bylaws, or articles of incorporation:

- (1) cash and any cash equivalent investments with maturities of one year or less when issued;
- (2) debt securities with maturities greater than one year when issued, including but not limited to mortgage participation certificates and pools, asset backed securities, guaranteed investment contracts, and authorized government and corporate obligations of corporations organized under laws of the United States or any state, or the Dominion of Canada or its provinces;
- (3) stocks or convertible issues of any corporation organized under laws of the United States or any state, or the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange;
- (4) international stocks or convertible issues;
- (5) international debt securities; and
- (6) real estate and venture capital.

(b) If the pension plan is investing under section 69.77, subdivision 9, section 69.775, or any other applicable law, in open-end investment companies registered under the federal Investment Company Act of 1940, or in the Minnesota supplemental investment fund under section 11A.17, this investment must be included under an asset class indicated in paragraph (a), clauses (1) through (6), as appropriate. If the investment vehicle includes underlying securities from more than one asset class as indicated by paragraph (a), clauses (1) through (6), the investment may be treated as a separate asset class.

Subd. 3. **Content of reports.** (a) The report required by subdivision 1 must include a written statement of the investment policy. Following that initial report, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If, after four years of reporting under this paragraph, the total portfolio time weighted rate of return, net of all investment related costs and fees, provided by the public pension plan differs by no more than 0.1 percent from the comparable return for the plan calculated by the Office of the State Auditor, and if a public pension plan has a total market value of \$25,000,000 or more as of the beginning of the calendar year, and if the public pension plan's annual audit is performed by the state auditor or by the legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and as of the end of the calendar year. At the discretion of the state auditor, the public pension plan may be required to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account,

investment portfolio, or asset class. If the market value of a public pension plan's fund drops below \$25,000,000 in a subsequent year, it must continue reporting under this paragraph for any subsequent year in which the public pension plan is not fully invested as specified in subdivision 1, paragraph (b), except that if the public pension plan's annual audit is not performed by the state auditor or legislative auditor, paragraph (c) applies.

(c) If paragraph (b) would apply if the annual audit were provided by the state auditor or legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class.

(d) For public pension plans to which paragraph (b) or (c) applies, the report required by subdivision 1 must also include a calculation of the total time-weighted rate of return available from index-matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(e) If a public pension plan has a total market value of less than \$25,000,000 as of the beginning of the calendar year and was never required to file under paragraph (b) or (c), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(f) Any public pension plan reporting under paragraph (b) or (c) must include computed time-weighted rates of return with the report, in addition to all other required information, as applicable. The chief administrative officer of the public pension plan submitting the returns must certify, on a form prescribed by the state auditor, that the returns have been computed by the pension plan's investment performance consultant or custodial bank. The chief administrative officer of the public pension plan submitting the returns also must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and presentation standards set by the CFA Institute. If the certifications required under this paragraph are not provided, the reporting requirements of paragraph (c) apply.

(g) For public pension plans reporting under paragraph (e), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or be submitted by the State Board of Investment for any plan or plans for which the State Board of Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply,

the pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

Subd. 4. **Alternative reporting; certain plans.** In lieu of requirements in subdivision 3, the applicable administration for the individual retirement account plans under chapters 354B and 354D and for the University of Minnesota faculty retirement plan shall submit computed time-weighted rates of return to the Office of the State Auditor. These time-weighted rates of return must cover the most recent complete calendar year, and must be computed separately for each investment option available to plan members. To the extent feasible, the returns must be computed net of all investment costs, fees, and charges, so that the computed return reflects the net time-weighted return available to the investor. If this is not practical, the existence of any remaining investment cost, fee, or charge which could further lower the net return must be disclosed. The procedures used to compute the returns must be consistent with Bank Administration Institute studies of investment performance measurement and Association for Investment Management and Research presentation standards, or, if applicable, Securities Exchange Commission requirements. The individual who computes the returns must certify that the supplied returns comply with this subdivision. The applicable plan administrator must also submit, with the return information, the total amounts invested by the plan members, in aggregate, in each investment option as of the last day of the calendar year.

Subd. 5. **Penalty for noncompliance.** Failure to comply with the reporting requirements of this section must result in a withholding of all state aid or state appropriation to which the pension plan may otherwise be directly or indirectly entitled until the pension plan has complied with the reporting requirements. The state auditor shall instruct the commissioners of revenue and management and budget to withhold any state aid or state appropriation from any pension plan that fails to comply with the reporting requirements contained in this section, until the pension plan has complied with the reporting requirements. The state auditor may waive the withholding of state aid or state appropriations if the state auditor determines in writing that compliance would create an excessive hardship for the pension plan.

Subd. 6. **Investment disclosure report.** (a) The state auditor shall prepare an annual report to the legislature on the investment performance of the various public pension plans subject to this section. The content of the report is specified in paragraphs (b) to (f).

(b) For each public pension plan reporting under subdivision 3, paragraph (b), the state auditor shall report total portfolio and asset class time-weighted rates of return, net of all investment-related costs and fees. If the state auditor has required a plan to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class as prescribed under subdivision 3, paragraph (b), the state auditor shall also compute and report total portfolio and asset class time-weighted rates of return, net of all costs and fees.

(c) For each public pension plan reporting under subdivision 3, paragraph (c), the state auditor shall compute and report total portfolio and asset class time-weighted rates of return, net of all costs and fees.

(d) For each public pension plan reporting under subdivision 3, paragraph (e), the state auditor shall compute and report total portfolio time-weighted rates of return, net of all costs and fees. If the state auditor has requested data for a plan under subdivision 3, paragraph (g), the state

auditor may also compute and report asset class time-weighted rates of return, net of all costs and fees.

(e) The report by the state auditor must include the information submitted by the pension plans under subdivision 3, paragraph (d), or a synopsis of that information.

(f) The report by the state auditor may also include a presentation of multiyear performance, information collected under subdivision 4, and any other information or analysis deemed appropriate by the state auditor.

**Subd. 7. Expense of report.** All administrative expenses incurred relating to the investment report by the state auditor described in subdivision 6 must be borne by the Office of the State Auditor and may not be charged back to the entities described in subdivisions 1 or 4.

**Subd. 8. Timing of reports.** (a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c).

(b) For the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, the University of Minnesota faculty supplemental retirement plan, and the applicable administrators for the University of Minnesota faculty retirement plan and the individual retirement account plans under chapters 354B and 354D, the information required under this section must be submitted to the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

**Subd. 9. Data availability.** Any information received by the state auditor under this section, if the data are public, must be made available to individuals or organizations which request that information. The state auditor is authorized to charge fees sufficient to cover the cost of providing the requested information in usable formats.

**Subd. 10. Pension performance reporting.** In addition to report presentations that the state auditor is required to provide elsewhere in this section, the state auditor shall provide an analysis comparing the one-year and the five-year rate of return for each pension fund and the benchmark rate of return for each fund. The state auditor shall select the benchmark rate of return based on the best practice in the industry.

**History:** 1994 c 565 art 2 s 1; 1995 c 262 art 9 s 1; 1996 c 438 art 10 s 1; 1997 c 241 art 10 s 4; 2002 c 392 art 1 s 8; art 11 s 10; 2006 c 271 art 8 s 4,5; 2006 c 277 art 6 s 1,2; 2009 c 101 art 2 s 109; 2009 c 169 art 10 s 6

### 356.22 INTERPRETATION.

Subdivision 1. **Provision of additional valuations.** No provision in sections 356.20 to 356.23 may be construed in any way to limit any of the enumerated pension and retirement

funds from furnishing additional actuarial valuations or experience studies, or additional data and actuarial calculations, as may be requested by the legislature or any standing committee or by the Legislative Commission on Pensions and Retirement.

Subd. 2. **Accelerated amortization.** No provision in sections 356.20 to 356.23 may be construed to preclude any public pension and retirement fund enumerated in section 356.20, subdivision 2, from requesting, or the legislature from providing for, the amortization of any unfunded actuarial accrued liability in a shorter period of time than by the established date for full funding as determined under section 356.215, subdivision 11.

Subd. 3. **Additional required valuations.** The legislature or any committee or commission which has assigned to it the subject of public pensions or public retirement plans may require actuarial valuations and experience studies in conformity with the provisions of sections 356.20 to 356.23 from any public pension and retirement plan or fund, whether enumerated in sections 356.20 to 356.23 or otherwise.

**History:** 1965 c 359 s 3; 1975 c 192 s 4,5; 1979 c 184 s 2; 1981 c 224 s 171; 1Sp1985 c 7 s 35; 1987 c 259 s 57; 2002 c 392 art 11 s 11

### **356.23 SUPPLEMENTAL VALUATIONS; ALTERNATIVE REPORTS AND VALUATIONS.**

Subdivision 1. **Supplemental actuarial valuations.** Any supplemental actuarial valuations prepared on behalf of any governing or managing board of any pension and retirement fund enumerated in section 356.20, subdivision 2, by an approved actuary, must be prepared in accordance with the applicable provisions of sections 356.20 to 356.23 and with the standards adopted by the Legislative Commission on Pensions and Retirement. Any pension and retirement fund which prepares an alternative actuarial valuation under subdivision 2 also must have a supplemental actuarial valuation prepared.

Subd. 2. **Alternative reports and valuations.** In addition to the financial reports and actuarial valuations required by sections 356.20 to 356.23, the governing or managing board of any fund concerned may submit alternative reports and actuarial valuations for distribution to the legislature, any of its committees, or the Legislative Commission on Pensions and Retirement on a different basis or on different assumptions than are specified in sections 356.20 to 356.23. The assumptions and basis of any alternative reports and valuations must be clearly stated in the document.

**History:** 1965 c 359 s 4; 1971 c 7 s 7; 1975 c 192 s 6; 1984 c 655 art 1 s 59; 1987 c 259 s 58; 2002 c 392 art 11 s 12

## **LIMITATIONS ON SUPPLEMENTAL AND LOCAL RETIREMENT PLANS**

### **356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.**

Subdivision 1. **Restriction; exceptions.** It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for or to contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits;

(3) to the individual retirement account plan established by chapter 354B;

(4) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(5) for employees other than personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and covered under the Higher Education Supplemental Retirement Plan under chapter 354C, but including city managers covered by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph (a), or by the defined contribution plan of the Public Employees Retirement Association under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is provided for in a personnel policy of the public employer or in the collective bargaining agreement between the public employer and the exclusive representative of public employees in an appropriate unit or in the individual employment contract between a city and a city manager, and if for each available investment all fees and historic rates of return for the prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an easily comprehended document not to exceed two pages, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of one-half of the available elective deferral permitted per year per employee, under the Internal Revenue Code:

(i) to the state of Minnesota deferred compensation plan under section 352.965;

(ii) in payment of the applicable portion of the contribution made to any investment eligible under section 403(b) of the Internal Revenue Code, if the employing unit has complied with any applicable pension plan provisions of the Internal Revenue Code with respect to the tax-sheltered annuity program during the preceding calendar year; or

(iii) any other deferred compensation plan offered by the employer under section 457 of the Internal Revenue Code;

(6) for personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and not covered by clause (5), to the supplemental retirement plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,700 a year for each employee;

(7) to a supplemental plan or to a governmental trust to save for postretirement health care expenses qualified for tax-preferred treatment under the Internal Revenue Code, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit;

(8) to the laborers national industrial pension fund or to a laborers local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(9) to the plumbers and pipefitters national pension fund or to a plumbers and pipefitters local pension fund for the employees of a governmental subdivision who are covered by a

collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(10) to the international union of operating engineers pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(11) to a supplemental plan organized and operated under the federal Internal Revenue Code, as amended, that is wholly and solely funded by the employee's accumulated sick leave, accumulated vacation leave, and accumulated severance pay;

(12) to the International Association of Machinists national pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(13) for employees of United Hospital District, Blue Earth, to the state of Minnesota deferred compensation program, if the employee makes a contribution, in an amount that does not exceed the total percentage of covered salary under section 353.27, subdivisions 3 and 3a; or

(14) to the alternative retirement plans established by the Hennepin County Medical Center under section 383B.914, subdivision 5.

Subd. 1a. [Repealed, 2000 c 461 art 13 s 4]

Subd. 1b. **Vendor restrictions.** A personnel policy for unrepresented employees, a collective bargaining agreement for represented employees, or a school board for school district employees may establish limits on the number of vendors of plans covered by the exceptions set forth in subdivision 1 that it will utilize and conditions under which those vendors may contact employees both during working hours and after working hours.

Subd. 1c. **State Board of Investment review.** (a) Any insurance company, mutual fund company, or similar company providing investments eligible under section 403(b) of the Internal Revenue Code and eligible to receive employer contributions under this section may request the State Board of Investment, in conjunction with the Department of Commerce, to review the financial standing of the company, the competitiveness of its investment options and returns, and the level of all charges and fees impacting those returns.

(b) The State Board of Investment may establish a fee for each review. The State Board of Investment must maintain and have available a list of all reviewed companies.

(c) In reviewing companies under this section, the State Board of Investment must not be considered to be acting as a fiduciary or to be engaged in a fiduciary activity under chapter 356A or common law.

Subd. 2. **Limit on certain contributions or benefit changes.** No change in benefits or employer contributions in a supplemental pension plan to which this section applies that occurs after May 6, 1971, is effective without prior legislative authorization.

**History:** 1971 c 222 s 1; 1980 c 600 s 7; 1981 c 224 s 172; 1988 c 605 s 9; 1988 c 709 art 11 s 6; 1989 c 319 art 12 s 3; 1992 c 464 art 1 s 42; 1992 c 487 s 4; 1993 c 192 s 90; 1993 c 239 art 3 s 1; 1993 c 300 s 12; 1995 c 141 art 3 s 16; art 4 s 7; 1995 c 212 art 4 s 64; 1999 c 222 art 18 s 1; 2000 c 461 art 12 s 15; art 13 s 1-3; 1Sp2001 c 1 art 2 s 24; 1Sp2001 c 10 art 7 s



2; 2002 c 392 art 10 s 1; art 11 s 13-16; 1Sp2003 c 12 art 7 s 1; 2006 c 271 art 3 s 40; art 7 s 1; 2008 c 349 art 11 s 6; 2010 c 359 art 2 s 15; art 15 s 4

### **356.245 LOCAL ELECTED OFFICIALS.**

An elected official who is covered by section 353.01, subdivision 2a, is eligible to participate in the state of Minnesota deferred compensation plan under section 356.24. The applicable local governmental unit may make the matching employer contributions authorized by that section on the part of a participating elected official.

**History:** 1988 c 709 art 9 s 3; 2002 c 392 art 11 s 17

### **356.25 LOCAL GOVERNMENTAL PENSION FUND PROHIBITIONS; EXCLUSIONS.**

Notwithstanding any other provision of law or charter to the contrary, no city, county, public agency or instrumentality, or other political subdivision is required or permitted to establish for any of its employees a local pension plan or fund financed in whole or in part from public funds, other than:

(1) a supplemental pension or deferred compensation plan authorized under section 356.24; or

(2) a volunteer firefighters relief association that is established under chapter 424A and is governed by sections 69.771 to 69.776.

**History:** 1975 c 405 s 1; 1977 c 429 s 63; 1981 c 224 s 173; 1984 c 655 art 1 s 60; 2002 c 392 art 10 s 2; art 11 s 18

**356.26** [Repealed, 1976 c 129 s 1]

## **PUBLIC RETIREMENT PLAN PORTABILITY MECHANISMS**

### **356.30 COMBINED SERVICE ANNUITY.**

Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any provisions of the laws governing the retirement plans enumerated in subdivision 3, a person who has met the qualifications of paragraph (b) may elect to receive a retirement annuity from each enumerated retirement plan in which the person has at least one-half year of allowable service, based on the allowable service in each plan, subject to the provisions of paragraph (c).

(b) A person may receive, upon retirement, a retirement annuity from each enumerated retirement plan in which the person has at least one-half year of allowable service, and augmentation of a deferred annuity calculated at the appropriate rate under the laws governing each public pension plan or fund named in subdivision 3, based on the date of the person's initial entry into public employment from the date the person terminated all public service if:

(1) the person has allowable service in any two or more of the enumerated plans;

(2) the person has sufficient allowable service in total that equals or exceeds the applicable service credit vesting requirement of the retirement plan with the longest applicable service credit vesting requirement; and

(3) the person has not begun to receive an annuity from any enumerated plan or the person has made application for benefits from each applicable plan and the effective dates of the retirement annuity with each plan under which the person chooses to receive an annuity are within a one-year period.

(c) The retirement annuity from each plan must be based upon the allowable service, accrual rates, and average salary in the applicable plan except as further specified or modified in the following clauses:

(1) the laws governing annuities must be the law in effect on the date of termination from the last period of public service under a covered retirement plan with which the person earned a minimum of one-half year of allowable service credit during that employment;

(2) the "average salary" on which the annuity from each covered plan in which the employee has credit in a formula plan must be based on the employee's highest five successive years of covered salary during the entire service in covered plans;

(3) the accrual rates to be used by each plan must be those percentages prescribed by each plan's formula as continued for the respective years of allowable service from one plan to the next, recognizing all previous allowable service with the other covered plans;

(4) the allowable service in all the plans must be combined in determining eligibility for and the application of each plan's provisions in respect to reduction in the annuity amount for retirement prior to normal retirement age; and

(5) the annuity amount payable for any allowable service under a nonformula plan of a covered plan must not be affected, but such service and covered salary must be used in the above calculation.

(d) This section does not apply to any person whose final termination from the last public service under a covered plan was before May 1, 1975.

(e) For the purpose of computing annuities under this section, the accrual rates used by any covered plan, except the public employees police and fire plan, the judges retirement fund, and the State Patrol retirement plan, must not exceed the percent specified in section 356.315, subdivision 4, per year of service for any year of service or fraction thereof. The formula percentage used by the judges retirement fund must not exceed the percentage rate specified in section 356.315, subdivision 8, per year of service for any year of service or fraction thereof. The accrual rate used by the public employees police and fire plan and the State Patrol retirement plan must not exceed the percentage rate specified in section 356.315, subdivision 6, per year of service for any year of service or fraction thereof. The accrual rate or rates used by the legislators retirement plan must not exceed 2.5 percent, but this limit does not apply to the adjustment provided under section 3A.02, subdivision 1, paragraph (c).

(f) Any period of time for which a person has credit in more than one of the covered plans must be used only once for the purpose of determining total allowable service.

(g) If the period of duplicated service credit is more than one-half year, or the person has credit for more than one-half year, with each of the plans, each plan must apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all plans for the period.

(h) If the period of duplicated service credit is less than one-half year, or when added to other service credit with that plan is less than one-half year, the service credit must be ignored and a refund of contributions made to the person in accord with that plan's refund provisions.

Subd. 2. **Repayment of refunds.** A person who has service credit in one of the retirement plans enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these covered plans but also has received a refund from any other of these

covered plans, may repay the refund to the respective plan under terms and conditions that are consistent with the laws governing the other plan, except that the person need not be a currently contributing member of the plan to which the refund is repaid at the time the repayment is made. Unless otherwise provided by statute, the repayment of a refund under this subdivision may only be made within six months following termination of employment from a position covered by one of the covered plans enumerated in subdivision 3 or before the date of retirement from the plan to which the refund is repaid, whichever is earlier.

**Subd. 2a. Purchases of prior service.** If a purchase of prior service is made under the provisions of Laws 1988, chapter 709, article 3, or any similar special or general law provision which allows a purchase of service credit in any of the retirement plans enumerated in subdivision 3, the amount of required reserves calculated as prescribed in Laws 1988, chapter 709, article 3, must be paid to each plan based on the amount of benefit increase payable from that plan as a result of the purchase of prior service.

**Subd. 3. Covered plans.** This section applies to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (3) the unclassified employees retirement program, established under chapter 352D;
- (4) the State Patrol retirement plan, established under chapter 352B;
- (5) the legislators retirement plan, established under chapter 3A;
- (6) the elective state officers retirement plan, established under chapter 352C;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353, including the MERF division of the Public Employees Retirement Association;
- (8) the public employees police and fire retirement plan of the Public Employees Retirement Association, established under chapter 353;
- (9) the local government correctional service retirement plan of the Public Employees Retirement Association, established under chapter 353E;
- (10) the Teachers Retirement Association, established under chapter 354;
- (11) the St. Paul Teachers Retirement Fund Association, established under chapter 354A;
- (12) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and
- (13) the judges retirement fund, established by chapter 490.

**History:** 1975 c 232 s 1; 1981 c 37 s 2; 1981 c 298 s 11; 1983 c 286 s 14; 1986 c 444; 1987 c 372 art 1 s 20; art 9 s 35; 1989 c 319 art 2 s 23; art 5 s 4; art 13 s 92; 1991 c 340 s 31; 1992 c 432 art 2 s 45; 1994 c 528 art 2 s 14; 1995 c 141 art 3 s 20; 1995 c 262 art 1 s 13; art 3 s 6; 1997 c 233 art 1 s 61,62; 1999 c 222 art 2 s 17; 2000 c 461 art 3 s 44; art 18 s 3; 2002 c 392 art 11 s 19; 2006 c 271 art 11 s 48; 2006 c 277 art 2 s 10; art 3 s 35; 2008 c 277 art 1 s 79; 2010 c 359 art 1 s 70; art 12 s 25

**356.301** [Repealed, 1987 c 284 art 8 s 3]

**356.302 DISABILITY BENEFIT WITH COMBINED SERVICE.**

Subdivision 1. **Definitions.** (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a disability benefit by the covered retirement plan and that is drawn from any period of credited service and successive years of covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 7.

(d) "Duty-related" means a disabling illness or injury that occurred while the person was actively engaged in employment duties or that arose out of the person's active employment duties.

(e) "General employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (1) to (6) and (11).

(f) "Occupationally disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to satisfactorily perform the minimum requirements of the person's employment position or a substantially similar employment position.

(g) "Public safety employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (7) to (10).

(h) "Totally and permanently disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to engage in any substantial gainful activity and that is expected to continue or has continued for a period of at least one year or that is expected to result directly in the person's death.

Subd. 2. **Entitlement.** Notwithstanding any provision of law to the contrary governing any covered retirement plan, a member of a covered retirement plan may receive a combined service disability benefit from each covered retirement plan in which the person has credit for at least one-half year of allowable service if that person meets the applicable qualifying conditions. Subdivision 3 applies to a member of a general employee retirement plan. Subdivision 4 applies to a member of a public safety employee retirement plan. Subdivision 5 applies to a member of a covered retirement plan with both general employee and public safety employee retirement plan service.

Subd. 3. **General employee plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than the normal retirement age on the date of the application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least the number of years required by the applicable retirement plan with the longest service credit requirement for disability benefit receipt;

(4) has credit for at least one-half year of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination

of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

**Subd. 4. Public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

(1) has become occupationally disabled;

(2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least the minimum period of service credit required by the applicable retirement plan with the longest service credit eligibility requirement for the receipt of a duty-related disability benefit if the disability is duty-related or totaling at least the minimum period of service credit required by the applicable retirement plan with the longest service credit eligibility requirement for a disability benefit that is not duty-related if the disability is not duty-related;

(3) has credit for at least one-half year of allowable service with the current public safety employee retirement plan before the commencement of the disability; and

(4) was not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

**Subd. 5. General and public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of both a public safety employee retirement plan and general employee retirement plan must meet the qualifying requirements in subdivisions 3 and 4 to receive a combined service disability benefit from the applicable general employee and public safety employee retirement plans, except that the person need only be a member of a covered retirement plan at the time of the commencement of the disability, that the person must have allowable service credit for the applicable retirement plan with the longest service credit eligibility requirement for the receipt of a disability benefit, and that the minimum allowable service requirements of subdivisions 3, clauses (3) and (5), and 4, clauses (3) and (4), may be met in any combination of covered retirement plans.

**Subd. 6. Combined service disability benefit computation.** (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary figure to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion

to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and the covered salary under the plan must be used as applicable in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled as provided in section 356.30, subdivision 1, paragraphs (g) and (h).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans enumerated in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

(h) A partially employed recipient of a disability benefit must have any current reemployment income plus the total disability payments from all plans enumerated in subdivision 7 added together, and then compared to their final salary rate as a public employee. If current income plus the total disability payments exceed the final salary of the person at the time of retirement, then disability benefit payments from all the plans must be reduced on a prorated basis relative to the years of service in each fund so that earnings plus benefit payments do not exceed the final salary rate.

Subd. 7. **Covered retirement plans.** This section applies to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (2) the unclassified state employees retirement program of the Minnesota State Retirement System, established by chapter 352D;
- (3) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;
- (4) the Teachers Retirement Association, established by chapter 354;
- (5) the Duluth Teachers Retirement Fund Association, established by chapter 354A;
- (6) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;
- (7) the state correctional employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (8) the State Patrol retirement plan, established by chapter 352B;
- (9) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E; and
- (11) the judges retirement plan, established by chapter 490.

**History:** 1987 c 284 art 8 s 1; 1988 c 709 art 5 s 39,40; 1989 c 319 art 5 s 5; 1990 c 570 art 12 s 56,57; 1992 c 432 art 2 s 46; 1993 c 307 art 2 s 18; art 4 s 51; 1995 c 141 art 3 s 20;

*1999 c 222 art 2 s 18; 2000 c 461 art 3 s 46; 2002 c 392 art 11 s 20; 2004 c 267 art 8 s 33; 2006 c 271 art 11 s 48; 2006 c 277 art 3 s 36; 2010 c 359 art 1 s 71-73; art 12 s 26,27*

### **356.303 SURVIVOR BENEFIT WITH COMBINED SERVICE.**

Subdivision 1. **Definitions.** (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a survivor annuity or a survivor benefit, whichever applies, by the covered retirement plan and that is drawn from any period of credited service and covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan enumerated in subdivision 4.

(d) "Deceased member" means a person who on the date of death was an active member of a covered retirement plan and who has reached the minimum age, if any, that is required by the covered retirement plan as part of qualifying for a survivor annuity or survivor benefit.

(e) "Surviving child" means a child of a deceased member (1) who is unmarried; (2) who has not reached age 18, or, if a full-time student, who has not reached a higher age as specified by the applicable covered retirement plan; and (3) if specified by that plan, who was actually dependent on the deceased member for a specified proportion of support before the deceased member's death. "Surviving child" includes a natural child, an adopted child, or a child of a deceased member who is conceived during the member's lifetime and who is born after the member's death.

(f) "Surviving spouse" means the legally married husband or wife, whichever applies, of the deceased member who was residing with the deceased member on the date of death and who, if specified by the applicable covered retirement plan, had been married to the deceased member for a specified period of time before the death of the deceased member.

(g) "Survivor annuity" means the entitlement to a future amount payable to a survivor as the remainder interest of an optional annuity form implied by law as having been chosen by a deceased member before the date of death and effective on the date of death or provided automatically.

(h) "Survivor benefit" means an entitlement to a future amount payable to a survivor that is not included in the definition of a survivor annuity.

Subd. 2. **Entitlement; eligibility.** Notwithstanding any provision of law to the contrary governing a covered retirement plan, a person who is the survivor of a deceased member of a covered retirement plan may receive a combined service survivor benefit from each covered retirement plan in which the deceased member had credit for at least one-half year of allowable service if the deceased member:

(1) had credit for sufficient allowable service in any combination of covered retirement plans to meet the minimum allowable service credit requirement of the applicable covered retirement fund with the longest allowable service credit requirement for qualification for a survivor benefit or annuity;

(2) had credit for at least one-half year of allowable service with the most recent covered retirement plan before the date of death and was an active member of that covered retirement plan on the date of death; and

(3) was not receiving a retirement annuity from any covered retirement plan on the date of death.

Subd. 3. **Combined service survivor benefit computation.** (a) The combined service survivor annuity or survivor benefit from each covered retirement plan must be based on the allowable service in each covered retirement plan, except as provided by paragraphs (b) to (f).

(b) The survivor annuity or survivor benefit must be governed by the law in effect for each covered retirement plan on the date of the death of the deceased member.

(c) All plans must base the survivor annuity or survivor benefit on the same average salary figure if the annuity or benefit is salary related.

(d) If the method of the covered retirement plan used to compute a survivor benefit or annuity varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a survivor benefit or annuity does not vary based on the length of allowable service credit, the portion of the specified benefit or annuity amount from the covered retirement plan must bear the same proportion to the total specified benefit or annuity amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the survivor benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a deceased member had allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service survivor annuity or survivor benefit. A period of duplicated service credit must be handled as provided in section 356.30, subdivision 1, paragraphs (g) and (h).

(g) If a person is entitled to a minimum benefit payable from a public pension plan named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

Subd. 4. **Covered retirement plans.** This section applies to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;



(9) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;

(10) the Teachers Retirement Association, established by chapter 354;

(11) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(12) the St. Paul Teachers Retirement Fund Association, established by chapter 354A; and

(13) the judges retirement fund, established by chapter 490.

**History:** 1987 c 284 art 8 s 2; 1989 c 319 art 5 s 6; 1992 c 432 art 2 s 47; 1995 c 141 art 3 s 20; 1999 c 222 art 2 s 19; 2000 c 461 art 3 s 46; 2002 c 392 art 11 s 21; 2006 c 271 art 11 s 48; 2006 c 277 art 3 s 37; 2010 c 359 art 1 s 74; art 12 s 28

**356.305** [Repealed, 2002 c 392 art 11 s 53]

**356.306** [Repealed, 2002 c 392 art 11 s 53]

**356.31** [Repealed, 2002 c 392 art 11 s 53]

## RETIREMENT ANNUITIES

### 356.315 RETIREMENT BENEFIT FORMULA PERCENTAGES.

Subdivision 1. **Coordinated plan members.** The applicable benefit accrual rate is 1.2 percent.

Subd. 1a. **Coordinated plan members.** The applicable benefit accrual rate is 1.4 percent.

Subd. 2. **Coordinated plan members.** The applicable benefit accrual rate is 1.7 percent.

Subd. 2a. **Coordinated members.** The applicable benefit accrual rate is 2.0 percent.

Subd. 2b. **Certain coordinated program members.** The applicable benefit accrual rate is 1.9 percent.

Subd. 3. **Basic plan members.** The applicable benefit accrual rate is 2.2 percent.

Subd. 4. **Basic plan members.** The applicable benefit accrual rate is 2.7 percent.

Subd. 5. **Correctional plan members.** The applicable benefit accrual rate is 2.4 percent if employed as a correctional state employee before July 1, 2010, or 2.2 percent if employed as a correctional state employee after June 30, 2010.

Subd. 5a. **Local government correctional service plan.** The applicable benefit accrual rate is 1.9 percent.

Subd. 6. **State troopers plan and police and fire plan members.** The applicable benefit accrual rate is 3.0 percent.

Subd. 7. **Judges plan.** The applicable benefit accrual rate is 2.7 percent.

Subd. 8. **Judges plan.** The applicable benefit accrual rate is 3.2 percent.

Subd. 9. **Future benefit accrual rate increases.** After January 2, 1998, benefit accrual rate increases under this section must apply only to allowable service or formula service rendered after the effective date of the benefit accrual rate increase.

**History:** 2002 c 392 art 11 s 22; 2006 c 277 art 3 s 38,39; 2010 c 359 art 1 s 75

**356.32 PROPORTIONATE ANNUITY AT AGE 65.**

Subdivision 1. **Proportionate retirement annuity.** (a) Notwithstanding any provision to the contrary of the laws governing any of the retirement funds enumerated in subdivision 2, any person who is an active member of any applicable fund, who has credit for at least one year but less than ten years of allowable service in one or more of the covered plans, and who terminates active service under a mandatory retirement law or policy or at age 65 or older, or at the normal retirement age if this age is not age 65, for any reason is entitled upon making written application on the form prescribed by the chief administrative officer of the plan to a proportionate retirement annuity from each covered plan in which the person has allowable service credit.

(b) The proportionate annuity must be calculated under the applicable laws governing annuities based upon allowable service credit at the time of retirement and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years.

(c) Nothing in this section prevents the imposition of the appropriate early retirement reduction of an annuity which commences before the normal retirement age.

Subd. 2. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (3) the State Patrol retirement plan, established under chapter 352B;
- (4) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353, including the MERF division of the Public Employees Retirement Association;
- (5) the public employees police and fire plan of the Public Employees Retirement Association, established under chapter 353;
- (6) the Teachers Retirement Association, established under chapter 354;
- (7) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and
- (8) the St. Paul Teachers Retirement Fund Association, established under chapter 354A.

**History:** 1975 c 183 s 2; 1976 c 130 s 1; 1978 c 649 s 3; 1978 c 796 s 44; 1979 c 40 s 10; 1979 c 217 s 27; 1980 c 342 s 15; 1981 c 37 s 2; 1981 c 224 s 174; 1981 c 298 s 11; 1987 c 372 art 1 s 21; 1989 c 319 art 13 s 93; 1995 c 141 art 3 s 20; 1997 c 233 art 1 s 63; 2002 c 392 art 11 s 23; 2009 c 169 art 11 s 2; 2010 c 359 art 12 s 29

**356.325** [Repealed, 2002 c 392 art 11 s 53]

**356.34** [Repealed, 1978 c 781 s 13]

**356.35** [Repealed, 2002 c 392 art 11 s 53]

**356.351** MS 2008 [Expired, 2007 c 134 art 11 s 11]

**356.36** [Repealed, 2002 c 392 art 11 s 53]

**356.37** [Repealed, 2002 c 392 art 11 s 53]

**356.371** [Repealed, 2002 c 392 art 11 s 53]

**356.372** [Repealed, 2002 c 392 art 11 s 53]

**356.38** [Repealed, 2002 c 392 art 11 s 53]

**356.39** [Repealed, 2002 c 392 art 11 s 53]

### **356.40 DATE FOR PAYMENT OF ANNUITIES AND BENEFITS.**

(a) Notwithstanding any law to the contrary, all annuities and benefits payable on and after December 1, 1977 by a covered retirement fund, as defined in section 356.30, subdivision 3, must be paid in advance for each month during the first week of that month. The bylaws of local retirement funds must be amended accordingly.

(b) In no event, however, may this section authorize the payment of both a retirement annuity and a surviving spouse's benefit in one month where the law governing the applicable retirement fund provides for the payment of the retired member's retirement annuity to the surviving spouse for the month in which the retired member dies.

**History:** 1977 c 388 s 3; 2002 c 392 art 11 s 24

### **356.401 EXEMPTION FROM PROCESS.**

Subdivision 1. **Exemption; exceptions.** None of the money, annuities, or other benefits provided for in the governing law of a covered retirement plan 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 2 or section 518.58, 518.581, or 518A.53.

Subd. 2. **Automatic deposits.** (a) The chief administrative officer of a covered retirement plan may remit, through an automatic deposit system, annuity, benefit, or refund payments only to a financial institution associated with the National Automated Clearinghouse Association or a comparable successor organization that is trustee for a person who is eligible to receive the annuity, benefit, or refund.

(b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief administrative officer of a covered retirement plan may remit the annuity, benefit, or refund payment to the applicable financial institution for deposit in the person's individual account or the person's joint account. If an overpayment of benefits is paid after the death of the annuitant or benefit recipient, the chief administrative officer of the pension plan is authorized to issue an administrative subpoena consistent with the requirements of section 13A.02, requiring the applicable financial institution to disclose the names of all joint and co-owners of the account and a description of all deposits to, and withdrawals from, the account which take place on or after the death of the annuitant or benefit recipient. An overpayment to a joint account after the death of the annuitant or benefit recipient must be repaid to the fund of the applicable covered retirement plan by the joint tenant if the overpayment is not repaid to that fund by the financial institution associated with the National Automated Clearinghouse Association or its successor. The governing board of the covered retirement plan may prescribe the conditions under which these payments may be made.

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the public employees defined contribution plan, established by chapter 353D;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;
- (12) the Teachers Retirement Association, established by chapter 354;
- (13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;
- (14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;
- (15) the individual retirement account plan, established by chapter 354B;
- (16) the higher education supplemental retirement plan, established by chapter 354C;
- (17) the Minneapolis Police Relief Association, established by chapter 423B;
- (18) the Minneapolis Firefighters Relief Association, established by chapter 423C; and
- (19) the judges retirement fund, established by chapter 490.

**History:** 2005 c 164 s 29; 1Sp2005 c 7 s 28; 1Sp2005 c 8 art 10 s 64; 2006 c 271 art 11 s 48; 2009 c 169 art 4 s 40; art 9 s 27; 2010 c 359 art 12 s 30

### **356.403 NORMAL RETIREMENT AGE; SAVINGS CLAUSE.**

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 37; 354.05, subdivision 38; and 354A.011, subdivision 15a, is to create a normal retirement age for persons first covered by those sections after May 16, 1989, that is the same as the retirement age in the federal Social Security law, including future amendments to that law. If a court determines that the legislature may not incorporate by reference the future changes in federal Social Security law, the legislature reserves the right to amend the appropriate sections to make the normal retirement age conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after May 16, 1989, has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.

**History:** 2002 c 392 art 11 s 25

**356.405 COMBINED PAYMENT OF RETIREMENT ANNUITIES.**

(a) The Public Employees Retirement Association and the Minnesota State Retirement System are permitted to combine payments to retirees if one of the payments is less than \$250 per month and if the individual elects the same joint and survivor annuity form from both systems, or if the individual elects straight life annuities from both systems. The total payment must be equal to the amount that is payable if payments were kept separate.

(b) Each plan must calculate the benefit amounts under the laws governing the plan and the required reserves must be paid to the plan making the combined payment from the plan where the service was earned.

(c) The plan making the payment would be responsible for issuing one payment and making address changes, tax withholding changes, and other administrative functions needed to process the payment.

**History:** 2002 c 392 art 11 s 26; 2007 c 134 art 2 s 43

**SURVIVOR BENEFITS****356.406 LOSS OF ENTITLEMENT TO BENEFITS FOR SURVIVOR CAUSING DEATH OF PENSION PLAN MEMBER.**

Subdivision 1. **Definitions.** (a) Each of the words or terms defined in this subdivision has the meaning indicated.

(b) "Public pension plan" means any retirement plan or fund enumerated in section 356.20, subdivision 2, or 356.30, subdivision 3, any relief association governed by section 69.77 or sections 69.771 to 69.775, any retirement plan governed by chapter 354B or 354C, the Hennepin County supplemental retirement plan governed by sections 383B.46 to 383B.52, or any housing and redevelopment authority retirement plan.

(c) "Public pension plan member" means a person who is a participant covered by a public pension plan; a former participant of a public pension plan who has sufficient service to be entitled to receive a future retirement annuity or service pension; a recipient of a retirement annuity, service pension, or disability benefit from a public pension plan; or a former participant of a public pension plan who has member or employee contributions to the person's credit in the public pension plan.

(d) "Survivor" means the surviving spouse, a former spouse, a surviving child, a joint annuitant, a designated recipient of a second or remainder portion of an optional annuity form, a beneficiary, or the estate of a deceased public pension plan member, as those terms are commonly understood or defined in the benefit plan document of the public pension plan.

(e) "Survivor benefit" means a surviving spouse benefit, surviving child benefit, second or remainder portion of an optional annuity form, a death benefit, a funeral benefit, or a refund of member or employee contributions payable on account of the death of a public pension plan member as provided for in the benefit plan document of the public pension plan.

Subd. 2. **Suspension of survivor benefits upon felony charge.** During the pendency of a charge of a survivor of a felony that caused the death of a public pension plan member, of criminal liability for a death by wrongful act felony, or of conspiracy to commit a death by wrongful act felony, the entitlement of that survivor to receive a survivor benefit is suspended.

Subd. 3. **Forfeiture of survivor benefits upon felony conviction.** On final conviction of a

survivor of a felony that caused the death of a public pension plan member, of criminal liability for a death by wrongful act felony, or of conspiracy to commit a death by wrongful act felony, the entitlement of that survivor to receive a survivor benefit is forfeited, including entitlement for any previously suspended survivor benefits under subdivision 2.

Subd. 4. **Suspension or forfeiture actions separate.** The charge of one survivor under subdivision 2 or the conviction of one survivor under subdivision 3 does not affect the entitlement of another survivor to a survivor benefit.

Subd. 5. **Recovery of certain benefits.** If monthly benefits or a refund of the balance of a participant or former participant's account have already been paid to an individual who is later charged or convicted as described under this section, the executive director or chief administrative officer of the public pension plan shall attempt to recover the amounts paid. Payment may be made to the next beneficiary or survivor only in an amount equal to the amount recovered and in the amount of any future payments that would legally accrue to another survivor under the applicable laws of the retirement plan.

Subd. 6. **Disposition of forfeited survivor benefits.** If the benefit plan document governing the public pension plan does not provide for the disposition of forfeited benefits, survivor benefits forfeited under this section must be deposited in the general fund of the state.

**History:** 2002 c 392 art 11 s 27

### 356.407 RESTORATION OF SURVIVOR BENEFITS.

Subdivision 1. **Restoration upon termination of remarriage.** Notwithstanding any provision to the contrary of the laws governing any of the retirement plans enumerated in subdivision 2, any person who was receiving a surviving spouse's benefit from any of those plans and whose benefit terminated solely because of remarriage is, if the remarriage terminates for any reason, again entitled upon reapplication to a surviving spouse's benefit; provided, however, that the person is not entitled to retroactive payments for the period of remarriage. The benefit resumes at the level which the person would have been receiving if there had been no remarriage. This section applies prospectively to any person who first becomes entitled to receive a surviving spouse's benefit on or after May 18, 1975, and also applies retroactively to any person who first became entitled to receive a surviving spouse's benefit before May 18, 1975; provided, however, that no person is entitled to retroactive payments for any period of time before May 18, 1975.

Subd. 2. **Covered funds.** The provisions of this section apply to the following retirement funds:

(1) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;

(2) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the legislators retirement plan established under chapter 3A;

(5) the elective state officers retirement plan established under chapter 352C; and

(6) the Teachers Retirement Association established under chapter 354.

**History:** 2002 c 392 art 11 s 28; 2010 c 359 art 12 s 31

**POSTRETIREMENT INCREASES**

**356.41** [Repealed, 2009 c 169 art 1 s 77]

**356.415 POSTRETIREMENT ADJUSTMENTS; STATEWIDE RETIREMENT PLANS.**

Subdivision 1. **Annual postretirement adjustments; generally.** (a) Except as otherwise provided in subdivision 1a, 1b, 1c, 1d, or 1e, retirement annuity, disability benefit, or survivor benefit recipients of a covered retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 12 full months prior to the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit amount for at least one full month, an annual postretirement increase of 1/12 of 2.5 percent for each month that the person has been receiving an annuity or benefit must be applied, effective on January 1 following the calendar year in which the person has been retired for less than 12 months.

(b) The increases provided by this subdivision commence on January 1, 2010.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the covered retirement plan requesting that the increase not be made.

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 353.29, subdivision 6, must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Subd. 1a. **Annual postretirement adjustments; Minnesota State Retirement System plans other than State Patrol retirement plan.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the legislators retirement plan, the general state employees retirement plan, the correctional state employees retirement plan, the elected state officers retirement plan, the unclassified state employees retirement program, and the judges retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of two percent must be applied each year, effective on January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months before the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months, an annual postretirement increase of 1/12 of two percent for each month that the person has been receiving an annuity or benefit must be applied, effective January 1, following the calendar year in which the person has been retired for at least six months, but has been retired for less than 18 months.

(b) The increases provided by this subdivision commence on January 1, 2011. Increases under this subdivision for the general state employees retirement plan, the correctional state employees retirement plan, or the judges retirement plan terminate on December 31 of the calendar year in which the actuarial valuation prepared by the approved actuary under sections

356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement indicates that the market value of assets of the retirement plan equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan and increases under subdivision 1 recommence after that date. Increases under this subdivision for the legislators retirement plan or the elected state officers retirement plan terminate on December 31 of the calendar year in which the actuarial valuation prepared by the approved actuary under sections 356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement indicates that the market value of assets of the general state employees retirement plan equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan and increases under subdivision 1 recommence after that date.

(c) An increase in annuity or benefit payments under this subdivision must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the applicable covered retirement plan requesting that the increase not be made.

**Subd. 1b. Annual postretirement adjustments; PERA; general employees retirement plan and local government correctional retirement plan.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the general employees retirement plan of the Public Employees Retirement Association and the local government correctional service retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and each successive January 1 until funding stability is restored for the applicable retirement plan, a postretirement increase of one percent must be applied each year, effective on January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30;

(2) for January 1, 2011, and each successive January 1 until funding stability is restored for the applicable retirement plan, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least one full month, but less than 12 full months as of the current June 30, an annual postretirement increase of 1/12 of one percent for each month the person has been receiving an annuity or benefit must be applied;

(3) for each January 1 following the restoration of funding stability for the applicable retirement plan, a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30; and

(4) for each January 1 following restoration of funding stability for the applicable retirement plan, for each annuity or benefit recipient who has been receiving an annuity or a benefit for at least one full month, but less than 12 full months as of the current June 30, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied.

(b) Funding stability is restored when the market value of assets of the applicable retirement plan equals or exceeds 90 percent of the actuarial accrued liabilities of the applicable plan in the most recent prior actuarial valuation prepared under section 356.215 and the standards for actuarial work by the approved actuary retained by the Public Employees Retirement Association under section 356.214.

(c) If, after applying the increase as provided for in paragraph (a), clauses (3) and (4), the market value of the applicable retirement plan is determined in the next subsequent actuarial



valuation prepared under section 356.215 to be less than 90 percent of the actuarial accrued liability of any of the applicable Public Employees Retirement Association plans, the increase provided in paragraph (a), clauses (1) and (2), are to be applied as of the next successive January until funding stability is again restored.

(d) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the Public Employees Retirement Association requesting that the increase not be made.

(e) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment, as provided in section 353.29, subdivision 6, must be treated as the sum of a period-certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period-certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6. A postretirement adjustment granted on the period-certain retirement annuity must terminate when the period-certain retirement annuity terminates.

Subd. 1c. **Annual postretirement adjustments; PERA-P&F.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the public employees police and fire retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and for January 1, 2012, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to one percent in each year;

(2) for January 1, 2011, and for January 1, 2012, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of one percent in each year;

(3) for January 1, 2013, and each successive January 1 that follows the loss of funding stability as defined under paragraph (b) until funding stability as defined under paragraph (b) is again restored, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous, but not to exceed 1.5 percent;

(4) for January 1, 2013, and each successive January 1 that follows the loss of funding stability as defined under paragraph (b) until funding stability as defined under paragraph (b) is again restored, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous for each full month of annuity or benefit receipt, but not to exceed 1/12 of 1.5 percent for each full month of annuity or benefit receipt;

(5) for each January 1 following the restoration of funding stability as defined under paragraph (b) and during the continuation of funding stability as defined under paragraph (b), for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to the percentage

increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous, but not to exceed 2.5 percent; and

(6) for each January 1 following the restoration of funding stability as defined under paragraph (b) and during the continuation of funding stability as defined under paragraph (b), for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous for each full month of annuity or benefit receipt, but not to exceed 1/12 of 2.5 percent for each full month of annuity or benefit receipt.

(b) Funding stability is restored when the market value of assets of the public employees police and fire retirement plan equals or exceeds 90 percent of the actuarial accrued liabilities of the applicable plan in the most recent prior actuarial valuation prepared under section 356.215 and under the standards for actuarial work of the Legislative Commission on Pensions and Retirement by the approved actuary retained by the Public Employees Retirement Association under section 356.214.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the Public Employees Retirement Association requesting that the increase not be made.

**Subd. 1d. Teachers Retirement Association annual postretirement adjustments.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the Teachers Retirement Association are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and January 1, 2012, no postretirement increase is payable;

(2) for January 1, 2013, and each successive January 1 until funding stability is restored, a postretirement increase of two percent must be applied each year, effective on January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months prior to the January 1 increase;

(3) for January 1, 2013, and each successive January 1 until funding stability is restored, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months, an annual postretirement increase of 1/12 of two percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1, following the year in which the person has been retired for less than 12 months;

(4) for each January 1 following the restoration of funding stability, a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months prior to the January 1 increase; and

(5) for each January 1 following the restoration of funding stability, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1, following the year in which the person has been retired for less than 12 months.

(b) Funding stability is restored when the market value of assets of the Teachers Retirement Association equals or exceeds 90 percent of the actuarial accrued liabilities of the Teachers Retirement Association in the most recent prior actuarial valuation prepared under section 356.215 and the standards for actuarial work by the approved actuary retained by the Teachers Retirement Association under section 356.214.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the Teachers Retirement Association requesting that the increase not be made.

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 354.35 must be treated as the sum of a period-certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period-certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62, 65, or normal retirement age, as selected by the member at retirement, for an annuity amount payable under section 354.35. A postretirement adjustment granted on the period-certain retirement annuity must terminate when the period-certain retirement annuity terminates.

**Subd. 1e. Annual postretirement adjustments; State Patrol retirement plan.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the State Patrol retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of 1.5 percent must be applied each year, effective on January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months before the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months, an annual postretirement increase of 1/12 of 1.5 percent for each month that the person has been receiving an annuity or benefit must be applied, effective January 1, following the calendar year in which the person has been retired for at least six months, but has been retired for less than 18 months.

(b) The increases provided by this subdivision commence on January 1, 2011. Increases under this subdivision for the State Patrol retirement plan terminate on December 31 of the calendar year in which the actuarial valuation prepared by the approved actuary under sections 356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement indicates that the market value of assets of the retirement plan equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan and increases under subdivision 1 recommence after that date.

(c) An increase in annuity or benefit payments under this subdivision must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the applicable covered retirement plan requesting that the increase not be made.

**Subd. 2. Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the legislators retirement plan established under chapter 3A;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(4) the State Patrol retirement plan established under chapter 352B;

(5) the elective state officers retirement plan established under chapter 352C;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;

(7) the public employees police and fire retirement plan of the Public Employees Retirement Association established under chapter 353;

(8) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(9) the teachers retirement plan established under chapter 354; and

(10) the judges retirement plan established under chapter 490.

Subd. 3. **Actuarial valuation reports until funding is stabilized.** Notwithstanding any provision of section 356.215, subdivision 8, to the contrary, until the actuarial valuations, prepared annually by the approved actuary under sections 356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement, indicate that the market value of assets of the applicable covered plans equals or exceeds 90 percent of the actuarial accrued liabilities, the actuarial valuation reports must utilize a postretirement interest rate assumption that is equal to the difference between the preretirement interest rate assumption provided in section 356.215, subdivision 8, and the stated annual postretirement adjustment rate provided under this section, as applicable to each covered plan.

**History:** 2009 c 169 art 1 s 73; 2010 c 359 art 1 s 76-82; art 12 s 32

### **356.42 POSTRETIREMENT ADJUSTMENT; LUMP-SUM PAYMENTS.**

Subdivision 1. **Entitlement.** A person who is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from a retirement fund specified in subdivision 3, clauses (1) to (8), is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2, if the annuity or benefit was computed under:

(1) the laws in effect before June 1, 1973, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (4);

(2) the laws in effect before July 1, 1973, if the person is receiving an annuity or benefit from a retirement fund specified in subdivision 3, clause (1), (2), (3), or (5);

(3) the Metropolitan Transit Commission transit operating division employees retirement fund plan document in effect on or before December 31, 1977, if the person is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from the retirement fund specified in subdivision 3, clause (5);

(4) the laws in effect before May 1, 1974, and before any adjustment under Laws 1987, chapter 372, article 3, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (6);

(5) the laws in effect before January 1, 1970, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (7); or

(6) the laws in effect before June 30, 1971, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (8).

Subd. 2. **Amount of postretirement adjustment; payment.** (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump-sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan annuity or benefit recipients, the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year, the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(c) For basic plan annuity or benefit recipients, the postretirement adjustment in 1989 is the greater of:

(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

(i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and

(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the Social Security Administration.

In 1990 and each following year, each eligible basic plan annuity or benefit recipient shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section must be paid on December 1 to those persons receiving an annuity or benefit on the preceding November 30. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. The postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid or returns the amount of adjustment to the retirement fund. Written notice of the waiver of the postretirement adjustment is irrevocable for the year during which it was made.

Subd. 3. **Covered retirement plans.** The postretirement adjustment provided in this section applies to the following retirement funds:

(1) the general employees retirement plans of the Public Employees Retirement Association;

(2) the public employees police and fire plan of the Public Employees Retirement Association;

(3) the teachers retirement association;

(4) the State Patrol retirement plan;

(5) the state employees retirement plan of the Minnesota State Retirement System;

- (6) the St. Paul Teachers Retirement Fund Association established under chapter 354A; and
- (7) the Duluth Teachers Retirement Fund Association established under chapter 354A.

**History:** 2002 c 392 art 11 s 30; 2006 c 277 art 3 s 40

**356.43** [Repealed, 2010 c 359 art 11 s 27]

**356.431 CONVERSION OF LUMP-SUM POSTRETIREMENT AND SUPPLEMENTAL PAYMENT TO AN INCREASED MONTHLY ANNUITY.**

Subdivision 1. **Lump-sum postretirement payment conversion.** For benefits paid after December 31, 2001, to eligible persons under section 356.42, the amount of the most recent lump-sum benefit payable to an eligible recipient under section 356.42 must be divided by 12. The result must be added to the monthly annuity or benefit otherwise payable to an eligible recipient, must become a permanent part of the benefit recipient's pension, and must be included in any pension benefit subject to future increases.

Subd. 2. [Repealed, 2009 c 169 art 1 s 77]

**History:** 2002 c 392 art 11 s 32; 2005 c 10 art 5 s 3; 2010 c 359 art 12 s 33

**REFUNDS**

**356.44 PARTIAL PAYMENT OF PENSION PLAN REFUND.**

(a) Notwithstanding any provision of law to the contrary, a member of a pension plan listed in section 356.30, subdivision 3, with at least two years of forfeited service taken from a single pension plan, may repay a portion of all refunds. A partial refund repayment must comply with this section.

(b) The minimum portion of a refund repayment is one-third of the total service credit period of all refunds taken from a single plan.

(c) The cost of the partial refund repayment is the product of the cost of the total repayment multiplied by the ratio of the restored service credit to the total forfeited service credit. The total repayment amount includes interest at the annual rate of 8.5 percent, compounded annually, from the refund date to the date repayment is received.

(d) The restored service credit must be allocated based on the relationship the restored service bears to the total service credit period for all refunds taken from a single pension plan.

(e) This section does not authorize a public pension plan member to repay a refund if the law governing the plan does not authorize the repayment of a refund of member contributions.

**History:** 2002 c 392 art 11 s 33

**356.441 PAYMENT ACCEPTANCE ALLOWED.**

Subdivision 1. **Payment authorization.** The repayment of a refund and interest on that refund or the payment of equivalent contributions and interest for an eligible leave of absence, as permitted under laws governing any public pension plan in Minnesota, may be made:

(1) with funds distributed or transferred from a plan qualified under the federal Internal Revenue Code of 1986, section 401, subsection (a) or (k); 403; 408; or 457, subsection (b), as amended from time to time; or

(2) with funds distributed from an individual retirement account or individual retirement annuity, if done solely in a manner that is eligible for treatment as a nontaxable rollover or transfer under the applicable federal law.

Subd. 2. **Separate accounting requirement.** Nontaxable rollovers or transfer amounts under subdivision 1 received by a public pension fund must be separately accounted for as member contributions not previously taxed. Before accepting any rollovers or transfers to which this section applies, the executive director shall require the member to provide written documentation to demonstrate that the amounts to be rolled over or transferred are eligible for a tax-free rollover or transfer and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.

**History:** 2002 c 392 art 11 s 34; 2004 c 267 art 9 s 22

**356.45** [Repealed, 2002 c 392 art 11 s 53]

**356.451** [Repealed, 2002 c 392 art 11 s 53]

**356.452** [Repealed, 2002 c 392 art 11 s 53]

**356.453** [Repealed, 2002 c 392 art 11 s 53]

**356.454** [Repealed, 2002 c 392 art 11 s 53]

**356.455** [Repealed, 2002 c 392 art 11 s 53]

## OPTIONAL ANNUITY FORMS

### **356.46 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE FOR ELECTING ANNUITY FORM; MANDATORY JOINT AND SURVIVOR OPTIONAL ANNUITY FORM.**

Subdivision 1. **Definitions.** As used in this section, each of the following terms shall have the meaning given.

(a) "Annuity form" means the payment procedure and duration of a retirement annuity or disability benefit available to a member of a public pension plan, based on the period over which a retirement annuity or disability benefit is payable, determined by the number of persons to whom the retirement annuity or disability benefit is payable, and the amount of the retirement annuity or disability benefit which is payable to each person.

(b) "Joint and survivor optional annuity" means an optional annuity form which provides a retirement annuity or disability benefit to a retired member or disabilitant and the spouse of the member or disabilitant on a joint basis during the lifetime of the retired member or disabilitant and all or a portion of the original retirement annuity or disability benefit amount to the surviving spouse in the event of the death of the retired member or disabilitant.

(c) "Optional annuity form" means an annuity form which is elected by a member and is not provided automatically as the standard annuity form of the public pension plan.

(d) "Public pension plan" means a public pension plan as defined under section 356.63, paragraph (b).

(e) "Retirement annuity" means a series of monthly payments to which a former or retired member of a public pension plan is entitled due to attaining a specified age and acquiring credit

for a specified period of service, which includes a retirement annuity, retirement allowance, or service pension.

(f) "Disability benefit" means a series of monthly payments to which a former or disabled member of a public pension plan is entitled due to a physical or mental inability to engage in specified employment.

**Subd. 2. Provision of information on annuity forms.** (a) Every public pension plan which provides for an annuity form other than a single life annuity as an option which can be elected by an active, disabled, or retiring member shall provide as a part of, or accompanying the annuity application form, a written statement summarizing the annuity forms which are available, a general indication of the consequences of selecting one annuity form over another, a calculation of the actuarial reduction in the amount of the retirement annuity which would be required for each optional annuity form, and the procedure to be followed to obtain more information from the public pension plan administration concerning all annuity forms provided by the plan. If the public pension plan offers joint and survivor optional annuity forms, the annuity application and accompanying information must include a statement informing the member and the member's spouse that, notwithstanding any law to the contrary, unless the spouse waives any rights to an optional annuity by a notarized statement on the annuity application or other form provided by the pension plan administration, the public pension plan administration shall assume that the member selected the 50 percent joint and survivor optional annuity form.

(b) In lieu of the notarized statement requirement referred to in paragraph (a), the pension plan administration may accept a statement which has been verified, including electronic verification, by administrators of the pension plan.

**Subd. 3. Requirement of notice to member's spouse.** (a) Every public pension plan administration that provides for a joint and survivor optional retirement or disability annuity potentially applicable to the surviving spouse of a member shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's selection of the form of retirement or disability benefit.

(b) Following the selection of a retirement or disability annuity by the member, a copy of the completed annuity application and annuity beneficiary form, if applicable, must be sent by the executive director of the public pension plan to the spouse of the retiring or disabled member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed annuity application and annuity beneficiary form, unless the spouse's signature acknowledging the annuity form selected is on the annuity application or other form as designated by the plan. If the public pension plan administration has not received from the spouse within 30 days a signed acknowledgment, because the annuity application or other form as designated by the public pension plan administration did not include the spouse's signature, the executive director of the public pension plan must notify the member and the member's spouse that the 50 percent joint and survivor annuity form, or a higher joint and survivor form if selected, shall be paid if the spouse does not acknowledge the annuity form selected by the member by responding to the second notice sent to the spouse within 30 days. The second notice must be sent by certified mail with restricted delivery.

(c) If a public pension plan administration receives notice that the provisions of this section have not been complied with, or if a member selects a benefit form without the valid consent of the member's spouse, the executive director of the public pension plan shall suspend the payment of monthly benefits and shall take all actions necessary to comply with this subdivision.



(d) For the Teachers Retirement Association, the statement to the spouse that is required under paragraph (a) must be sent before or upon the member's election of an annuity.

Subd. 4. **Plan exclusions.** This section does not apply to:

- (1) any volunteer fire relief association to which sections 69.771 to 69.776 apply; and
- (2) any plan under which the applicable surviving spouse would receive automatic surviving spouse coverage if a joint and survivor annuity were not elected.

Subd. 5. **Disabilitant survivor treatment.** This section should not be interpreted as prohibiting payment of a survivor annuity to the spouse of a deceased disabilitant, in lieu of any other annuity, if laws specific to the plan provide for a higher surviving spouse annuity.

Subd. 6. **Limitations due to marriage dissolution.** The requirement to pay a 50 percent joint and survivor annuity is void if there is a court order to the contrary.

Subd. 7. **Liability waiver.** The pension fund and plan, its employees, and any agent working on behalf of the plan administration are not liable for harm caused by any act of fraud committed by the retiring member or current or previous spouse, or any information withheld from, or incorrect information supplied to the plan administration.

**History:** 2002 c 392 art 11 s 35; 2003 c 2 art 1 s 41; 2007 c 134 art 2 s 44; 2008 c 349 art 4 s 7

### **356.465 SUPPLEMENTAL NEEDS TRUST AS OPTIONAL ANNUITY FORM RECIPIENT.**

Subdivision 1. **Inclusion as recipient.** A retiring member may designate a qualified supplemental needs trust under subdivision 2 as the remainder recipient on an optional retirement annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental needs trust.

Subd. 2. **Definition of qualified supplemental needs trust.** A qualified supplemental needs trust is a trust that:

- (1) was established on or after July 1, 1992;
- (2) was established solely for the benefit of one person who has a disability under federal Social Security Administration supplemental security income or retirement, survivors, and disability insurance disability determination standards and who was determined as such before the creation of the trust;
- (3) is funded, in whole or in part, by the primary recipient of the optional annuity form and, unless the trust is a Zebley trust, is not funded by the beneficiary, the beneficiary's spouse, or a person who is required to pay a sum to or for the trust beneficiary under the terms of litigation or a litigation settlement;
- (4) is established to cover reasonable living expenses and other basic needs of the disabilitant, in whole or in part, in instances when public assistance does not provide sufficiently for these needs;
- (5) is not permitted to make disbursement to replace or reduce public assistance otherwise available;
- (6) is irrevocable;
- (7) terminates upon the death of the disabled person for whose benefit it was established; and

(8) is determined by the executive director to be a trust that contains excluded assets for purposes of the qualification for public entitlement benefits under the applicable federal and state laws and regulations.

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the legislators retirement plan established under chapter 3A;

(5) the judges retirement plan established under chapter 490;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;

(7) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;

(8) the teachers retirement plan established under chapter 354;

(9) the Duluth Teachers Retirement Fund Association established under chapter 354A;

(10) the St. Paul Teachers Retirement Fund Association established under chapter 354A;

(11) the Minneapolis Firefighters Relief Association established under chapter 423C;

(12) the Minneapolis Police Relief Association established under chapter 423B; and

(13) the local government correctional service retirement plan of the Public Employees Retirement Association established under chapter 353E.

Subd. 4. **Expanded eligibility.** (a) Notwithstanding subdivision 1, for a retirement plan specified in paragraph (b), a designation under subdivision 1 may be made by an active, disabled, deferred, or retiring member.

(b) The applicable plan is the Teachers Retirement Association established under chapter 354.

**History:** 2002 c 392 art 11 s 36; 2006 c 277 art 3 s 41; 2009 c 169 art 4 s 41,42; 2010 c 359 art 12 s 34

## REEMPLOYED ANNUITANT EARNINGS DISPOSITION

### 356.47 DISPOSITION OF AMOUNT IN EXCESS OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

Subdivision 1. **Application.** This section applies to the balance of annual retirement annuities on the amount of retirement annuity reductions after reemployed annuitant earnings limitations for retirement plans governed by section 352.115, subdivision 10; 353.37; 354.44, subdivision 5; or 354A.31, subdivision 3.

Subd. 2. **Record keeping; reporting.** The chief administrative officer of each retirement

plan shall keep records for each reemployed annuitant of the amount of the annuity reduction. This amount must be reported to each member at least once each year.

Subd. 3. **Payment.** (a) Beginning one year after the reemployment withholding period ends relating to the reemployment that gave rise to the limitation, and the filing of a written application, the retired member is entitled to the payment, in a lump sum, of the value of the person's amount under subdivision 2, plus annual compound interest. For the general state employees retirement plan, the correctional state employees retirement plan, the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, the local government correctional employees retirement plan, and the teachers retirement plan, the annual interest rate is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until January 1, 2011, whichever is earlier, and no interest after January 1, 2011. For the Duluth Teachers Retirement Fund Association, the annual interest is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until June 30, 2010, whichever is earlier, and no interest after June 30, 2010. For the St. Paul Teachers Retirement Fund Association, the annual interest is the rate of six percent from the date that the amount was deducted from the retirement annuity to the date of payment.

(b) The written application must be on a form prescribed by the chief administrative officer of the applicable retirement plan.

(c) If the retired member dies before the payment provided for in paragraph (a) is made, the amount is payable, upon written application, to the deceased person's surviving spouse, or if none, to the deceased person's designated beneficiary, or if none, to the deceased person's estate.

(d) In lieu of the direct payment of the person's amount under subdivision 2, on or after the payment date under paragraph (a), if the federal Internal Revenue Code so permits, the retired member may elect to have all or any portion of the payment amount under this section paid in the form of a direct rollover to an eligible retirement plan as defined in section 402(c) of the federal Internal Revenue Code that is specified by the retired member. If the retired member dies with a balance remaining payable under this section, the surviving spouse of the retired member, or if none, the deceased person's designated beneficiary, or if none, the administrator of the deceased person's estate may elect a direct rollover under this paragraph.

**History:** 2002 c 392 art 11 s 37; 1Sp2005 c 8 art 3 s 7; 2008 c 349 art 5 s 31; 2010 c 359 art 1 s 83

## MARRIAGE DISSOLUTION RETIREMENT COVERAGE INFORMATION

### 356.48 REVOCATION OF OPTIONAL ANNUITY DUE TO MARRIAGE DISSOLUTION OR ANNULMENT.

Subdivision 1. **Covered plans.** This section applies to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the unclassified state employees retirement program of the Minnesota State Retirement System established under chapter 352D;

(5) the general employee retirement plan of the Public Employees Retirement Association established under chapter 353;

(6) the public employees police and fire retirement plan established under chapter 353;

(7) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(8) the Teachers Retirement Association established under chapter 354; and

(9) the uniform judicial retirement plan established under chapter 490.

Subd. 2. **Treatment.** (a) The treatment specified in this section applies if, after the accrual date of an annuity or benefit from an applicable plan or plans, a marriage dissolution decree or annulment decree is rendered that specifies that the designation of an optional annuity must be revoked and if the other requirements specified in this section are satisfied.

(b) Notwithstanding any law to the contrary, if the applicable pension plan or plans have provisions of law that revise the monthly benefit amount payable to the primary annuitant upon the death of the individual named as the optional joint annuitant, the monthly benefit amount must be recomputed as though the individual that had been named as the optional joint annuitant died on the date a certified copy of the marriage dissolution or annulment decree is received by the chief administrative officer. Payment of any benefit adjustment under this section is prospective only.

Subd. 3. **Restrictions.** (a) This section does not apply if the marriage dissolution decree or annulment decree is not consistent with the requirements under section 518.58.

(b) The pension plan benefit recipient must not designate, and the court may not require that the member designate, a subsequent optional annuity beneficiary.

(c) This section does not apply if more than one surviving individual was named as an optional joint annuitant.

Subd. 4. **Submission of documentation.** To receive the treatment provided in this section, an eligible retiree or disabilitant must provide, to the chief administrative officer of the applicable pension plan, a certified copy of the marriage dissolution or annulment decree. The retiree or disabilitant and the joint annuitant must also submit a form, prescribed by the chief administrative officer of the applicable pension plan and signed by both individuals, requesting the annuity bounce back as provided in subdivision 2. The individuals must also provide any other documentation the chief administrative officer may request.

**History:** 2010 c 359 art 10 s 1

### **356.49 PROVISION OF INFORMATION IN EVENT OF MARRIAGE DISSOLUTION.**

Subdivision 1. **Information for pending marriage dissolution.** (a) Upon receipt of a written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administrator must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon the request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, or as of the end of the previous fiscal year for the plan, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

Subd. 2. **Information for existing dissolution decree.** If a marriage dissolution decree rendered by a court of competent jurisdiction prior to August 1, 1987, provided a procedure for the distribution of future pension plan payments, upon request the applicable pension plan administrator shall provide on a timely basis to the court and the parties to the action, the required information to implement that procedure without requiring a signed authorization from the plan member or former plan member.

Subd. 3. **Access to data.** Notwithstanding any provision of chapter 13 to the contrary, an administrator may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 518.582, to the extent necessary to comply with this section, but only if the administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action.

**History:** 2002 c 392 art 11 s 38

## SERVICE AND SALARY CREDIT

### **356.50 SERVICE AND SALARY CREDIT FROM BACK PAY AWARDS IN THE EVENT OF WRONGFUL DISCHARGE; ANNUITY AND DISABILITY TREATMENT.**

Subdivision 1. **Application.** (a) A person who is wrongfully discharged from public employment that gave rise to coverage by a public employee pension plan enumerated in section 356.30, subdivision 3, is entitled to obtain allowable service credit from the applicable public employee pension plan for the applicable period caused by the wrongful discharge.

(b) A person is wrongfully discharged for purposes of this section if:

(1) the person has been determined by a court of competent jurisdiction, by an arbitrator in binding arbitration, by the commissioner of veterans affairs, or by a board, commission, or panel acting under section 197.46, whichever applies, to have been wrongfully discharged from public employment;

(2) the person received an award of back pay with respect to that discharge; and

(3) the award does not include any amount for any lost or interrupted public pension plan coverage.

Subd. 2. **Service credit procedure.** (a) To obtain the public pension plan allowable service credit, the eligible person under subdivision 1 shall pay the required member contribution amount. The required member contribution amount is the member contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the unpaid gross salary amounts of the back pay award including unemployment insurance, workers' compensation, or wages from other sources which reduced the back award. No contributions may be made under this clause for compensation covered by a public pension plan listed in section

356.30, subdivision 3, for employment during the removal period. The person shall pay the required member contribution amount within 60 days of the date of receipt of the back pay award or within 60 days of a billing from the retirement fund, whichever is later.

(b) The public employer who wrongfully discharged the public employee must pay an employer contribution on the back pay award. The employer contribution must be based on the employer contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the salary amount on which the member contribution amount was determined under paragraph (a). Interest on both the required member and employer contribution amount must be paid by the employer at the annual compound rate of 8.5 percent per year, expressed monthly, between the date the contribution amount would have been paid to the date of actual payment. The employer payment must be made within 30 days of the payment under paragraph (a).

Subd. 3. **Employer reporting.** The employer must report to the executive director of the applicable pension plan that a person has been determined to be wrongfully discharged and the employer must provide a copy of the written order or decision.

Subd. 4. **Annuity repayment.** Notwithstanding subdivisions 1 and 2, if after being discharged, the person commences receipt of an annuity from the applicable plan, and it is later determined that the person was wrongfully discharged, the person shall repay the annuity received in a lump sum within 60 days of receipt of the back pay award.

Subd. 5. **Disability treatment.** If a person is wrongfully discharged and before reinstatement takes a refund of employee contributions under the applicable plan's refund provision and fails to repay that refund, then notwithstanding other law to the contrary, if the person applies for a disability benefit and is approved for that benefit, the disability benefit amount must be computed solely on the years of covered service provided after reinstatement, on the individual's salary for benefit computation purposes, and on the applicable plan accrual rates, rather than receiving a minimum disability benefit amount, if applicable, specified in plan law.

**History:** 1992 c 443 s 1; 1994 c 488 s 8; 2002 c 392 art 11 s 39; 2004 c 206 s 52; 2006 c 271 art 3 s 41; 2010 c 359 art 2 s 16

**356.55 MS 2002** [Repealed, 1998 c 390 art 4 s 1; 1Sp2001 c 10 art 6 s 16; 2002 c 392 art 11 s 40; 1Sp2003 c 12 art 6 s 1]

### **356.551 POST JULY 1, 2004, PRIOR SERVICE CREDIT PURCHASE PAYMENT AMOUNT DETERMINATION PROCEDURE.**

Subdivision 1. **Application.** (a) Unless the prior service credit purchase authorization special law or general statute provision explicitly specifies a different purchase payment amount determination procedure, this section governs the determination of the prior service credit purchase payment amount of any prior service credit purchase.

(b) The purchase payment amount determination procedure must recognize any service credit accrued to the purchaser in a pension plan enumerated in section 356.30, subdivision 3.

(c) Any service credit in a Minnesota defined benefit public employee pension plan available to be reinstated by the purchaser through the repayment of a refund of member or employee contributions previously received must be repaid in full before any purchase of prior service credit payment is made under this section.

Subd. 2. **Determination.** (a) Unless the minimum purchase amount set forth in paragraph (c) applies, the prior service credit purchase amount is an amount equal to the actuarial present value, on the date of payment, as calculated by the chief administrative officer of the pension plan and reviewed by the actuary retained under section 356.214, of the amount of the additional retirement annuity obtained by the acquisition of the additional service credit in this section.

(b) Calculation of this amount must be made using the preretirement interest rate applicable to the public pension plan specified in section 356.215, subdivision 8, and the mortality table adopted for the public pension plan. The calculation must assume continuous future service in the public pension plan until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including section 356.30, are met with the additional service credit purchased. The calculation must also assume a full-time equivalent salary, or actual salary, whichever is greater, and a future salary history that includes annual salary increases at the applicable salary increase rate for the plan specified in section 356.215, subdivision 4d.

(c) The prior service credit purchase amount may not be less than the amount determined by applying, for each year or fraction of a year being purchased, the sum of the employee contribution rate, the employer contribution rate, and the additional employer contribution rate, if any, applicable during that period, to the person's annual salary during that period, or fractional portion of a year's salary, if applicable, plus interest at the annual rate of 8.5 percent compounded annually from the end of the year in which contributions would otherwise have been made to the date on which the payment is received.

(d) Unless otherwise provided by statutes governing a specific plan, payment must be made in one lump sum within one year of the prior service credit authorization or prior to the member's effective date of retirement, whichever is earlier. Payment of the amount calculated under this section must be made by the applicable eligible person.

(e) However, the current employer or the prior employer may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of 8.5 percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made. If the employer agrees to payments under this subdivision, the purchaser must make the employee payments required under this subdivision within 90 days of the prior service credit authorization. If that employee payment is made, the employer payment under this subdivision must be remitted to the chief administrative officer of the public pension plan within 60 days of receipt by the chief administrative officer of the employee payments specified under this subdivision.

Subd. 3. **Documentation.** The prospective prior service credit purchaser must provide any relevant documentation required by the chief administrative officer of the applicable public pension plan to determine eligibility for the prior service credit under this section.

Subd. 4. **Payment precondition for credit grant.** Service credit for the purchase period must be granted by the public pension plan to the purchaser upon receipt of the full purchase payment amount specified in subdivision 2.

**History:** 1998 c 390 art 4 s 2; 2002 c 392 art 11 s 41; 1Sp2005 c 8 art 10 s 65; 2008 c 349 art 5 s 32

**356.555** MS 2002 [Expired]

**356.58** [Repealed, 2003 c 2 art 1 s 45]

**356.60** [Repealed, 1982 c 578 art 1 s 19]

**356.61** [Repealed, 2000 c 461 art 14 s 1]

### COVERED SALARY LIMITATION

#### **356.611 LIMITATION ON PUBLIC EMPLOYEE SALARIES FOR PENSION PURPOSES.**

Subdivision 1. [Repealed, 2005 c 169 s 2]

Subd. 2. **Federal compensation limits.** (a) For members of a covered pension plan enumerated in section 356.30, subdivision 3, and of the plan established under chapter 353D, compensation in excess of the limitation specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a plan specified in that paragraph before July 1, 1995, the annual compensation limit specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies if that provides a greater allowable annual compensation.

Subd. 3. **Maximum benefit limitations.** A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the federal Internal Revenue Code, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code for any applicable increases in the cost of living after the member's termination of employment. For purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable.

Subd. 3a. **Maximum annual addition limitation.** The annual additions on behalf of a member to the plan established under chapter 352D or 353D for any limitation year beginning after December 31, 2001, shall not exceed the lesser of 100 percent of the member's compensation, as defined for purposes of section 415(c) of the Internal Revenue Code; or \$40,000, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code.

Subd. 4. **Compensation.** (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year including items described in federal treasury regulation section 1.415 (c)-2(b) and excluding items described in federal treasury regulation section 1.415 (c)-2(c).

(b) Compensation for any period includes:

(1) any elective deferral as defined in section 402(g)(3) of the federal Internal Revenue Code;

(2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the federal Internal Revenue Code; and



(3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the federal Internal Revenue Code.

**History:** 1994 c 528 art 4 s 11; 1995 c 262 art 1 s 15; 2002 c 392 art 11 s 43; 2004 c 267 art 2 s 6-8; art 10 s 1; 1Sp2005 c 8 art 1 s 23; 2007 c 13 art 2 s 17; 2008 c 349 art 5 s 33,34,37; 2009 c 169 art 4 s 43,44

**356.615** [Repealed, 2002 c 392 art 11 s 53]

## MEMBER CONTRIBUTION EMPLOYER PICK UP

### 356.62 PAYMENT OF EMPLOYEE CONTRIBUTION.

(a) For purposes of any public pension plan, as defined in section 356.63, paragraph (b), each employer shall pick up the employee contributions required pursuant to law or the pension plan for all salary payable after December 31, 1982. If the United States Treasury Department rules that under section 414(h) of the Internal Revenue Code of 1986, as amended through December 31, 1992, that these picked up contributions are not includable in the employee's adjusted gross income until they are distributed or made available, then these picked up contributions must be treated as employer contributions in determining tax treatment under the Internal Revenue Code of 1986, as amended through December 31, 1992, and the employer shall discontinue withholding federal income taxes on the amount of these contributions. The employer shall pay these picked up contributions from the same source of funds as is used to pay the salary of the employee. The employer shall pick up these employee contributions by a reduction in the cash salary of the employee.

(b) Employee contributions that are picked up must be treated for all purposes of the public pension plan in the same manner and to the same extent as employee contributions that were made prior to the date on which the employee contributions pick up began. The amount of the employee contributions that are picked up must be included in the salary upon which retirement coverage is credited and retirement and survivor's benefits are determined. For purposes of this section, "employee" means any person covered by a public pension plan. For purposes of this section, "employee contributions" include any sums deducted from the employee's salary or wages or otherwise paid in lieu thereof, regardless of whether they are denominated contributions by the public pension plan.

(c) For any calendar year in which withholding has been reduced under this section, the employing unit shall supply each employee and the commissioner of revenue with an information return indicating the amount of the employer's picked-up contributions for the calendar year that were not subject to withholding. This return must be provided to the employee not later than January 31 of the succeeding calendar year. The commissioner of revenue shall prescribe the form of the return and the provisions of section 289A.12 must apply to the extent not inconsistent with the provisions of this section.

**History:** 3Sp1982 c 1 art 2 s 7; 1983 c 148 s 6; 1983 c 216 art 1 s 85; 1990 c 480 art 1 s 46; 1993 c 375 art 8 s 14; 2001 c 7 s 66; 2002 c 379 art 1 s 78; 2002 c 392 art 11 s 44; 2003 c 2 art 1 s 42

## PENSION ASSET AND INVESTMENT LIMITATIONS

### 356.63 LIMITATION ON USE OF PUBLIC PENSION PLAN ASSETS.

(a) Money held by or credited to a public pension plan as assets, including employer and employee contributions, state aid, appropriations from the state or a governmental subdivision, and accrued earnings on investments, constitutes a dedicated fund. The dedicated fund may be used exclusively to pay retirement annuities, service pensions, disability benefits, survivor benefits, refunds of contributions, or other benefits provided under the benefit plan document or documents governing the public pension plan, and to pay reasonable administrative expenses approved by the governing board of the public pension plan or by another appropriate authority. No assets of a public pension plan may be loaned or transferred to the state or a governmental subdivision or be used to amortize an unfunded actuarial accrued liability in another public pension plan or fund, whether or not the plan providing the assets consolidates or has consolidated with the plan receiving the assets. Nothing in this section prohibits a public pension plan or the State Board of Investment from investing the assets of a plan as authorized by law, including the investment of the assets of public pension plans by the State Board of Investment in a commingled investment fund.

(b) A public pension plan for purposes of this section means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, or a retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or other public sources.

**History:** 2002 c 392 art 11 s 45

### 356.635 INTERNAL REVENUE CODE COMPLIANCE.

Subdivision 1. **Retirement benefit commencement.** The retirement benefit of a member who has terminated employment must begin no later than the later of April 1 of the calendar year following the calendar year that the member attains the federal minimum distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the calendar year following the calendar year in which the member terminated employment.

Subd. 2. **Distributions.** Distributions shall be made as required under section 401(a)(9) of the Internal Revenue Code and the treasury regulations adopted under that section, including, but not limited to, the incidental death benefit provisions of section 401(a)(9)(G) of the Internal Revenue Code.

Subd. 3. **Direct rollovers.** A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan as specified by the distributee.

Subd. 4. **Eligible rollover distribution.** An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee.

Subd. 5. **Ineligible amounts.** An eligible rollover distribution does not include:

(1) a distribution that is one of a series of substantially equal periodic payments, receivable annually or more frequently, that is made for the life or life expectancy of the distributee, the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

- (2) a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or
- (3) any other exception required by law or the Internal Revenue Code.

Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

- (1) an individual retirement account under section 408(a) of the federal Internal Revenue Code;
- (2) an individual retirement annuity plan under section 408(b) of the federal Internal Revenue Code;
- (3) an annuity plan under section 403(a) of the federal Internal Revenue Code;
- (4) a qualified trust plan under section 401(a) of the federal Internal Revenue Code that accepts the distributee's eligible rollover distribution;
- (5) an annuity contract under section 403(b) of the federal Internal Revenue Code;
- (6) an eligible deferred compensation plan under section 457(b) of the federal Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan; or
- (7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an individual account or annuity treated as an inherited individual retirement account under section 402(c)(11) of the federal Internal Revenue Code.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a) or 403(a) of the federal Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

Subd. 7. **Distributee.** A "distributee" is:

- (1) an employee or a former employee;
- (2) the surviving spouse of an employee or former employee;
- (3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the federal Internal Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital property, as provided in section 518.58; or
- (4) a nonspousal beneficiary of an employee or former employee who qualifies for a distribution under the plan and is a designated beneficiary as defined in section 401(a)(9)(E) of the federal Internal Revenue Code.

Subd. 8. **Forfeitures.** For defined benefit plans, unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures may not be applied to increase the benefits that any employee would otherwise receive under the plan.

Subd. 9. **Military service.** Contributions, benefits, and service credit with respect to qualified military service must be provided according to section 414(u) of the Internal Revenue Code.

**History:** 2004 c 267 art 10 s 2; 2009 c 169 art 4 s 45,46

**356.64 REAL ESTATE INVESTMENTS.**

(a) Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the State Board of Investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust if the investment is consistent with section 356A.04.

(b) An investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.

**History:** 2002 c 392 art 11 s 46; 2010 c 359 art 12 s 35

**ABANDONED PENSION FUND AMOUNTS****356.65 DISPOSITION OF ABANDONED PUBLIC PENSION FUND AMOUNTS.**

Subdivision 1. **Definitions.** For purposes of this section, unless the context clearly indicates otherwise, each of the following terms has the meaning given to it:

(a) "Public pension fund" means any public pension plan as defined in section 356.63, paragraph (b), and any Minnesota volunteer firefighters relief association which is established under chapter 424A and governed under sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of management and budget, which have been issued and delivered for more than six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made; or

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

Subd. 2. **Disposition of abandoned amounts.** Any unclaimed public pension fund amounts existing in any public pension fund are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts cancel and must be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the applicable public pension plan or applies for a retirement annuity under section 3A.12, 352.72, 352B.30, 353.71, 354.60, or 356.30, whichever applies, the canceled amount must be restored to the credit of the person.

**History:** 1981 c 224 s 178; 1983 c 286 s 17; 1992 c 513 art 4 s 41; 2001 c 7 s 67; 2002 c 392 art 11 s 47,48; 2008 c 277 art 1 s 80; 2009 c 101 art 2 s 109; 2010 c 359 art 12 s 36

**356.70** [Repealed, 1997 c 233 art 1 s 78]

**356.71** [Repealed, 2002 c 392 art 11 s 53]

**356.80** [Repealed, 2002 c 392 art 11 s 53]

**356.81** [Repealed, 2002 c 392 art 11 s 53]

**356.82 SAVINGS CLAUSE.**

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 37; 354.05, subdivision 38; and 354A.011, subdivision 15a is to create a normal retirement age for persons first covered by those sections after the effective date of those sections that is the same as the retirement age in the federal Social Security law, including future amendments to that law. If a court determines that the legislature may not incorporate by reference the future changes in federal Social Security law, the legislature reserves the right to amend the appropriate sections to make the normal retirement conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after the effective date of those sections has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.

**History:** 1989 c 319 art 13 s 95; 1992 c 464 art 1 s 43

**356.85** [Repealed, 1993 c 280 s 1]

**356.86** [Repealed, 2002 c 392 art 11 s 53]

**356.865** [Repealed, 2002 c 392 art 11 s 53]

**356.866** [Repealed, 2002 c 392 art 11 s 53]

## HEALTH INSURANCE WITHHOLDING

### **356.87 HEALTH INSURANCE WITHHOLDING.**

Subdivision 1. **Public employees insurance program withholding.** (a) Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund enumerated in section 356.20, subdivision 2, shall withhold health insurance premium amounts from the retirement annuity, disability benefit or survivor benefit, and shall pay the premium amounts to the public employees insurance program.

(b) The public employees insurance program shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

Subd. 2. **Public safety retiree insurance withholding.** (a) For purposes of this subdivision, "governing board" means the governing board or body that has been assigned the chief policy-making powers and management duties of the applicable pension plan.

(b) For a pension plan covered under section 356.20, subdivision 2, that provides monthly annuity payments, the governing board may direct the plan's chief administrative officer to withhold health, accident, and long-term care insurance premiums from the retirement annuity or disability benefit and to transmit the amount to an approved insurance provider specified by the eligible person. A governing board which agrees to participate may revise or revoke that decision at a later date if the board provides reasonable notice to the applicable parties.

(c) An eligible person is a person who:

(1) is a retiree or disabilitant from a participating plan;

(2) was a public safety officer as defined in United States Code, title 42, section 3796b;

(3) terminated service as a public safety officer due to disability or attainment of normal retirement age and commences receipt of an annuity without any period of deferral; and

(4) satisfies any other requirements to have all or a portion of the health, accident, or long-term care insurance premiums excluded from income for taxation purposes, as specified in section 845 of Public Law 109-28, the Pension Protection Act of 2006.

(d) An approved insurance provider is:

(1) any regulated, licensed insurance company;

(2) a fraternal or any other organization sponsoring a regulated, licensed insurance program; or

(3) an employer-sponsored insurance program, whether directly through the employer or a third-party administrator.

(e) An eligible person may elect to have the applicable plan administrator withhold and transmit the insurance amounts described in paragraph (b). The eligible person must make this election on a form prescribed by the chief administrative officer of the applicable plan.

(f) A pension fund and the plan fiduciaries which authorize or administer withholding of insurance premiums under this subdivision is not liable for failure to properly withhold or transmit the premium amounts.

**History:** 1990 c 589 art 2 s 2; 1991 c 340 s 32; 1991 c 341 s 47; 1994 c 465 art 3 s 55; 1995 c 248 art 10 s 17; 2002 c 392 art 11 s 49; 2007 c 134 art 11 s 8

**356.88** [Repealed, 2002 c 392 art 11 s 53]

**356.89** [Repealed, 2002 c 392 art 11 s 53]

**356.90** [Repealed, 2007 c 134 art 2 s 50]

### **356.91 VOLUNTARY MEMBERSHIP DUES DEDUCTION.**

(a) Upon written authorization of a person receiving an annuity from a public pension fund administered by the Minnesota State Retirement System or the Public Employees Retirement Association, the executive director of the public pension fund may deduct from the retirement annuity an amount requested by the annuitant to be paid as dues to any labor organization that is an exclusive bargaining agent representing public employees or an organization representing retired public employees of which the annuitant is a member and shall pay the amount to the organization so designated by the annuitant.

(b) A pension fund and the plan fiduciaries which authorize or administer deductions of dues payments under paragraph (a) are not liable for failure to properly deduct or transmit the dues amounts, provided that the fund and the fiduciaries have acted in good faith.

(c) The deductions under paragraph (a) may occur no more frequently than two times per year and may not be used for political purposes.

(d) Any labor organization specified in paragraph (a) shall reimburse the public pension fund for the administrative expense of withholding premium amounts.

**History:** 2008 c 349 art 15 s 1; 2010 c 359 art 12 s 37

**356.95** MS 2008 [Expired, 2007 c 134 art 2 s 45]

**PENSION PLAN APPEAL PROCEDURES****356.96 PENSION PLAN APPEAL PROCEDURES.**

Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the executive director of a covered pension plan or the executive director's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.20, subdivision 2, clauses (1) to (4), (9), and (12) to (15), but does not mean the deferred compensation plan administered under sections 352.965 and 352.97 or to the postretirement health care savings plan administered under section 352.98.

(d) "Governing board" means the Board of Trustees of the Public Employees Retirement Association, the Board of Trustees of the Teachers Retirement Association, or the Board of Directors of the Minnesota State Retirement System.

(e) "Person" includes an active, retired, deferred, or nonvested inactive participant in a covered pension plan or a beneficiary of a participant, or an individual who has applied to be a participant or who is or may be a survivor of a participant, or a state agency or other governmental unit that employs active participants in a covered pension plan.

Subd. 2. **Right to review.** A determination made by the chief administrative officer of a covered pension plan regarding a person's eligibility, benefits, or other rights under the plan with which the person does not agree is subject to review under this section.

Subd. 3. **Notice of determination.** If the applicable chief administrative officer denies an application or a written request, modifies a benefit, or terminates a benefit of a person claiming a right or potential rights under a covered pension plan, the chief administrative officer shall notify that person through a written notice containing:

(1) a statement of the reasons for the determination;

(2) a notice that the person may petition the governing board of the covered pension plan for a review of the determination and that a person's petition for review must be filed in the administrative office of the covered pension plan within 60 days of the receipt of the written notice of the determination;

(3) a statement indicating that a failure to petition for review within 60 days precludes the person from contesting in any other administrative review or court procedure the issues determined by the chief administrative officer;

(4) a statement indicating that all relevant materials, documents, affidavits, and other records that the person wishes to be reviewed in support of the petition must be filed with and received in the administrative office of the covered pension plan at least 15 days before the date of the hearing under subdivision 10; and

(5) a summary of this section, including all filing requirements and deadlines.

Subd. 4. **Termination of benefits.** (a) If a covered pension plan decides to terminate a benefit that is being paid to a person, before terminating the benefit, the chief administrative officer must, in addition to the other procedures prescribed in this section, provide the individual with written notice of the pending benefit termination by certified mail. The notice must explain the

reason for the pending benefit termination. The person must be given an opportunity to explain, in writing, in person, by telephone, or by e-mail, the reasons that the benefit should not be terminated.

(b) If the chief administrative officer is unable to contact the person and determines that a failure to terminate the benefit will result in unauthorized payment by a covered pension plan, the chief administrative officer may terminate the benefit immediately upon mailing a written notice containing the information required by subdivision 3 to the address to which the most recent benefit payment was sent and, if that address is that of a financial institution, to the last known address of the person.

**Subd. 5. Petition for review.** (a) A person who claims a right under subdivision 2 may petition for a review of that decision by the governing board of the covered pension plan.

(b) A petition under this section must be sent to the chief administrative officer by mail and must be postmarked no later than 60 days after the person received the notice required by subdivision 3. The petition must include the person's statement of the reason or reasons that the person believes the decision of the chief administrative officer should be reversed or modified. The petition may include all documentation and written materials that the petitioner deems to be relevant. In developing a record for review by the board when a decision is appealed, the chief administrative officer may direct that the applicant participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings and, as applicable, participate in a vocational assessment conducted by a qualified rehabilitation counselor on contract with the applicable retirement system.

**Subd. 6. Failure to petition.** If a timely petition for review under subdivision 5 is not filed with the chief administrative officer, the covered pension plan's determination is final and is not subject to further administrative or judicial review.

**Subd. 7. Notice of hearing.** (a) After receiving a petition, the chief administrative officer must schedule a timely review of the petition before the governing board of the covered pension plan. The review must be scheduled to take into consideration any necessary accommodations to allow the petitioner to participate in the governing board's review.

(b) Not less than 30 calendar days before the scheduled hearing date, the chief administrative officer must provide by mail to the petitioner an acknowledgment of the receipt of the person's petition and a follow-up notice of the time and place of the meeting at which the governing board is scheduled to consider the petition and must provide a copy of all relevant documents, evidence, summaries, and recommendations assembled by or on behalf of the plan administration to be considered by the governing board.

(c) All documents and materials that the petitioner wishes to be part of the record for review must be filed with the chief administrative officer and must be received in the offices of the covered pension plan at least 15 days before the date of the meeting at which the petition is scheduled to be heard.

(d) A petitioner may request a continuance of a scheduled hearing if the request is received by the chief administrative officer within ten calendar days of the scheduled date of the applicable board meeting. The chief administrative officer must reschedule the review within a reasonable time. Only one continuance may be granted to any petitioner.

**Subd. 8. Record for review.** (a) All evidence, including all records, documents, and affidavits in the possession of the covered pension plan of which the covered pension plan desires to avail itself and be considered by the governing board, and all evidence which the petitioner



wishes to present to the governing board, including any evidence which would otherwise be classified by law as "private," must be made part of the hearing record.

(b) The chief administrative officer must provide a copy of the record to each member of the governing board at least seven days before the scheduled hearing date.

(c) Any additional document, affidavit, or other relevant information that the petitioner requests be part of the record may be admitted with the consent of the governing board.

**Subd. 9. Amended determination.** At any time before the hearing before the governing board, for good cause shown and made part of the records of the plan, the chief administrative officer may reverse, alter, amend, or modify the prior decision which is subject to review under this section by issuing an amended decision. Upon doing so, the chief administrative officer may cancel the governing board's scheduled review of the person's petition and shall so notify the petitioner.

**Subd. 10. Hearing.** (a) The governing board shall hold a timely hearing on a petition for review as part of a regularly scheduled board meeting, or as part of a special meeting if so scheduled. All governing board members who participate in the decision-making process must be familiar with the record. The governing board shall make its decision on a petition solely on the record as submitted and on the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the chief administrative officer may state and discuss with the governing board their positions with respect to the petition. The governing board may allow further documentation to be placed in the record at the board meeting only with the agreement of both the chief administrative officer and the petitioner. The chief administrative officer may not otherwise participate in the board's decision-making process.

(b) When a petition presents a contested issue of law, an assistant attorney general may participate and may argue on behalf of the legal position taken by the chief administrative officer if that assistant attorney general does not also serve as the governing board's legal advisor during the board's decision-making process.

(c) A motion by a board member, supported by a summary of the relevant facts, conclusions and reasons, as properly amended and approved by a majority of the governing board, constitutes the board's final decision. A verbatim statement of the board's final decision must be served upon the petitioner. If the decision is contrary to the petitioner's desired outcome, the notice shall inform the petitioner of the appeal rights set forth in subdivision 13.

(d) If a petitioner who received timely notice of a scheduled hearing fails to appear, the governing board may nevertheless hear the petition and issue a decision.

**Subd. 11. Disability medical issues.** (a) If a person petitions the governing board to reverse or modify a determination which found that there exists no medical data supporting an application for disability benefits, the board may reverse that determination only if there is in fact medical evidence supporting the application. The board has the discretion to resubmit a disability benefit application at any time to a medical advisor for reconsideration, and the resubmission may include an instruction that further medical examinations be obtained.

(b) The governing board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical evidence contrary to the opinion of the medical advisor in the record and the medical advisor attests that the decision was made in accordance with the

applicable disability standard, the board must follow the decision of the medical advisor regarding the cause of the disability.

(c) The obligation of the governing board to follow the decision of the medical advisor under paragraph (b) does not apply to instances when the governing board makes a determination different from the recommendation of the medical advisor on issues that do not involve medical issues.

**Subd. 12. Referral for administrative hearing.** (a) Notwithstanding any provision of sections 14.03, 14.06, and 14.57 to 14.69 to the contrary, a challenge to a determination of the chief administrative officer of a covered pension plan must be conducted exclusively under the procedures set forth in this section and is not a contested case under chapter 14.

(b) Notwithstanding the provisions of paragraph (a), a governing board, in its sole discretion, may refer a petition brought under this section to the Office of Administrative Hearings for a contested case hearing under sections 14.57 to 14.69.

**Subd. 13. Appeal of the governing board's decision; judicial review.** Within 60 days of the date of the mailing of the notice of the governing board's decision, the petitioner may appeal the decision by filing a writ of certiorari with the Court of Appeals under section 606.01 and Rule 115 of the Minnesota Rules of Civil Appellate Procedure. Failure by a person to appeal to the Court of Appeals within the 60-day period precludes the person from later raising, in any subsequent administrative hearing or court proceeding, those substantive and procedural issues that reasonably should have been raised upon a timely appeal.

**Subd. 14. Petitions without notice.** Notwithstanding the petition notice and requirements under this section, a person who believes that the person's rights have been affected by a decision made by the administration of a covered pension plan may request a review under this section by the appropriate governing board. The petition under this subdivision must be made within 45 days of the time that the person knew or should have known of the disputed decision.

**Subd. 15. Governing board review panel.** Any covered pension plan subject to this section, by motion duly made and adopted, may appoint a panel of governing board members to hear and determine any or all petitions brought under this section. The governing board review panel must contain a minimum number of board members that would otherwise constitute a quorum of board members under the governing body's rules and procedures.

**History:** 2007 c 134 art 6 s 2; 2008 c 349 art 10 s 16; art 11 s 7; 2009 c 169 art 4 s 47; art 9 s 28; 2010 c 359 art 5 s 20-24; art 12 s 38

## ALLOCATION OF RECEIVABLES

### 356.98 ALLOCATION OF RECEIVABLES.

If an employing unit is dissolved or closed and amounts are owed to more than one Minnesota public pension plan, any amounts available to cover payments to the plans must be applied first to the employee contributions owed to the applicable plans, and next to the unpaid employer contributions, including any applicable employer additional contributions, and finally to the interest due on the employee and employer amounts. If, at any stage in this allocation process, the available amount is insufficient to fully cover the amount required, the remaining

available payment amount must be prorated among the applicable plans based on each plan's share of combined covered payroll.

**History:** 2007 c 134 art 2 s 46

### **356.99 CORRECTION OF ERRONEOUS DEFINED BENEFIT PLAN COVERAGE.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the person selected or elected by the governing board of a covered pension plan with primary responsibility to administer the covered pension plan, or that person's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.30, subdivision 3, except clauses (3), (5), and (6).

(d) "Governing board" means the governing board of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, or the St. Paul Teachers Retirement Fund Association.

(e) "Member" means an active plan member in a covered pension plan.

Subd. 2. **Treatment of terminated employee coverage error.** Any person who terminated the erroneously covered service before a chief administrative officer determined the covered pension plan coverage was in error retains the coverage with the plan that originally credited the service.

Subd. 3. **Active employee correction of prospective service coverage.** Upon determination by a chief administrative officer that a member is covered by the wrong pension plan, the employer must stop remitting the erroneous employee deductions and employer contributions and report the employee to the correct covered pension plan for all subsequent service.

Subd. 4. **Active employee treatment of past service.** Any plan member, with past service credited in an erroneous plan, retains the coverage for that past service with the plan that originally credited that service if the reporting error began earlier than two fiscal years prior to the current fiscal year in which the error was determined by the chief administrative officer. If the reporting error began within two fiscal years prior to the current fiscal year, the pension plan coverage for that past service must be corrected as provided in subdivision 5.

Subd. 5. **Past service transfer procedure.** (a) For cases under subdivision 4 requiring correction of prior service coverage, on behalf of the applicable member the chief administrative officer of the covered pension plan fund that has received erroneous employee deductions and employer contributions must transfer to the appropriate covered retirement plan fund an amount which is the lesser of all contributions made by or on behalf of the member for the period of erroneous membership, or the specific amount requested by the chief administrative officer of the other covered pension plan which represents the employee deductions and employer contributions that would have been made had the member been properly reported.

(b) If excess employee deductions remain in the member's account after the transfer of funds, the remaining erroneous amount must be refunded to the person with interest at the rate provided under the general refund law of the applicable covered pension plan. The chief

administrative officer must also return any remaining excess employer contributions by providing to the employer a credit against future contributions payable by that employer.

(c) If the contributions transferred to the correct covered pension plan fund are less than the amounts required for the period being corrected, the chief administrative officer of the correct covered pension plan fund must collect the remaining employee deductions and employer contributions from the employer under laws for recovering deficient contributions applicable to the correct covered pension plan, except that no interest is chargeable if the additional amounts due under this paragraph are received by the chief administrative officer within 30 days of notifying the employer of the amount due.

(d) A potential transfer under this section that would cause a plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made. Within 30 days after being notified by a chief administrative officer of an unmade potential transfer under this section, the employer of the member must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the fund of the appropriate covered pension plan. The chief administrative officer of the covered pension plan which erroneously provided coverage must provide to the employer a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from that employer.

(e) Upon transfer of the required assets, or payment from the employer under paragraph (d), whichever is applicable, allowable service and salary credit for the period being transferred is forfeited in the erroneous plan and is granted in the correct plan.

**History:** 2010 c 359 art 2 s 17