

that this act shall be in full force and effect from and after its passage and approval.

Sec. 3. Application limited. This act shall not apply to or affect any action or appeal now pending in which the validity of any such proceedings, leases, or of any such revenue certificates is called in question.

Approved April 24, 1959.

CHAPTER 649—H. F. No. 1892

[Not Coded]

An act relating to funding bonds in the City of Marshall; repealing Laws 1959, Chapter 328.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1959, Chapter 328, is hereby repealed.

Approved April 24, 1959.

CHAPTER 650—H. F. No. 1331

[Coded in Part]

An act relating to the Public Employees Retirement Association; amending Minnesota Statutes 1957, Sections 353.01, Subdivisions 2, 4, 6, 7, 10, 13, 15, and 16 and by adding new subdivisions thereto; 353.03, Subdivision 1; 353.13; 353.17; 353.26, Subdivisions 1, 2, and 3; 353.27, Subdivisions 5 and 6; 353.28, Subdivisions 2 and 8; 353.29, Subdivisions 1, 2, 3, and 4; 353.30, Subdivision 1 and by adding a new subdivision thereto; 353.31, Subdivisions 1, 2, and 3; 353.32, Subdivision 2, and by adding a new subdivision thereto; 353.33 and by adding a new subdivision thereto; 353.34, Subdivisions 1, 2, 3, and 4; 353.35; 353.36; 353.37; 353.38; 353.39; 353.42; 353.46, Subdivision 1; 353.53, Subdivisions 1 and 2; and 353.58; repealing Minnesota Statutes 1957, Sections 353.26, Subdivision 4; 353.29, Subdivision 5; 353.41; 353.43; 353.53, Subdivisions 3 and 4.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 353.01, Subdivision 2, is amended to read:

Subd. 2. **Public employee.** (1) "Public employee" means any person performing personal services as an elected or appointed officer or employee for a governmental subdivision *or for an elected officer thereof* and whose salary is paid, in whole or in part, *from revenue derived from taxation*, or by fees, assessments, or *from other sources*. The term "public employee" also *means* any person serving as an elected member of the legislature of the state of Minnesota, the secretary of the senate and the chief clerk of the house of representatives, or any person appointed as a district court reporter in this state and any officer or employee of the public employees retirement association, or any employee of the League of Minnesota Municipalities.

(2) "Public employee" does not mean

(a) persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(b) election officers;

(c) persons engaged in public work for the governmental subdivision but employed by contractors where the performance of such contract is authorized by competent authority;

(d) patient and inmate help in governmental subdivision charitable, penal and correctional institutions;

(e) members of boards, commissions, volunteer fire departments, *bands* and others who serve the governmental subdivision intermittently, and are paid on a per diem, per meeting or per fire basis;

(f) temporary, emergency and seasonal employees as defined by rules prescribed by the retirement board;

(g) public employees who by virtue of their employment are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision.

Sec. 2. Minnesota Statutes 1957, Section 353.01, Subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** "Governmental subdivision" means a county, city, village, borough, town, school district within this state, *or a department or unit of state government or any other public body employing any person who is a public employee by virtue of specific author-*

ization made in section 353.01, subdivision 2, but does not mean any municipal housing and redevelopment authority organized under the provisions of Minnesota Statutes, Sections 462.415 to 462.711; or any seaway port authority organized pursuant to Minnesota Statutes, Chapter 458; or any soil conservation district organized pursuant to Minnesota Statutes, Chapter 40; or to any hospital district organized or reorganized pursuant to legislation enacted by the 1959 Legislature.

Sec. 3. Minnesota Statutes 1957, Section 353.01, Subdivision 7, is amended to read:

Subd. 7. **Member.** "Member" means a member of the public employees retirement association and "membership" therein is limited to persons who are engaged in performing services as a public employee but also includes periods when such person is on a leave of absence of less than six months, a temporary lay off of less than six months, an authorized sick leave or an authorized leave for job training.

Sec. 4. Minnesota Statutes 1957, Section 353.01, Subdivision 10, is amended to read:

Subd. 10. **Salary.** "Salary" means the periodical compensation of any public employee and also means "wages" and includes "fees".

Sec. 5. Minnesota Statutes 1957, Section 353.01, Subdivision 13, is amended to read:

Subd. 13. **Year of contribution.** "Year of contribution" means any 12 calendar months of public service during or for which a member makes payment into the retirement fund through salary deductions or assessments, or through payments made under Minnesota Statutes 1953, section 353.11, subdivisions 2 or 3 as amended by Laws 1955, Chapter 815, and section 353.35, 353.36, 353.39.

Sec. 6. Minnesota Statutes 1957, Section 353.01, Subdivision 16, is amended to read:

Subd. 16. **Allowable service.** "Allowable service" means:

(1) Any service rendered by a public employee for which on or before June 30, 1958, he received credit to his account in the retirement fund by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or

(2) Any service rendered by a public employee for which on or before *July 1, 1961*, he elected to obtain credit for service by making payments to the fund pursuant to *Section 353.36*, or

(3) Any service rendered by a public employee after *July 1, 1957*, for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or

(4) Any service rendered by a person after *July 1, 1957*, for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund, as provided in *sections 353.35, 353.39, and Minnesota Statutes 1957, Section 353.26, Subdivision 4.*

(5) *Any service rendered by a public employee for which he elected to obtain credit for service by making payments to the fund pursuant to Section 353.35, 353.36, and Minnesota Statutes 1957, Section 353.26, Subdivision 4.*

(6) *Both service during years of actual membership in the course of which contributions were currently made and service in years during which the public employee was not a member but for which he later elected to obtain credit for, making payments to the fund as permitted by any law then in effect.*

Sec. 7. Minnesota Statutes 1957, Section 353.01, is amended by adding new subdivisions to read as follows:

[Subd. 18.] **Year of allowable service.** *"Year of allowable service" means any 12 calendar months not necessarily consecutive in which a public employee received compensation from the governmental subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year. It also means any 12 months in which a member maintains his status as a public employee. For the purposes of this section, a member who is subject to seasonal layoffs or who is on leave of absence authorized by his employer, for a period not to exceed one year, is deemed to have maintained his status as a public employee.*

[Subd. 19.] **Total and permanent disability.** *"Total and permanent disability" means a disability which results from some impairment of mind or body that substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work*

or occupation that he would be competent to perform were it not for that impairment, and whose impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

[Subd. 20.] **Dependent spouse.** "Dependent spouse" means: (1) The un-remarried widow of a deceased member, or (2) the widower of a deceased member who has attained the age of 65, has not remarried, was living with and dependent upon the member at the time of death for more than one-half of his support; or the widower of a deceased member who has not remarried and is totally and permanently disabled.

[Subd. 21.] **Fire fighter.** "Fire fighter" means any person who is regularly employed by a governmental subdivision serving on active duty with a designated fire company or having charge of one or more of the companies and engaged in the hazards of fire fighting.

[Subd. 22.] **Police officer.** "Police officer" means any person who is regularly employed by a governmental subdivision serving on active duty with a designated police department or sheriff's office or having charge of a police department or sheriff's office engaged in the hazards of protecting the safety and property of others and having the power to arrest by warrant.

[Subd. 23.] **Retirement annuity.** "Retirement annuity" means the pension paid or payable by the fund to a former member after retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

[Subd. 24.] **Optional survivors annuity.** "Optional survivors annuity" means the allowance paid or payable by the fund to a survivor of a former member pursuant to an optional annuity form selected by such member at or before retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

[Subd. 25.] **Spouse's annuity.** "Spouse's annuity" means the allowance paid or payable by the fund to a spouse of a deceased member commencing at age 62 or 65 which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

[Subd. 26.] **Annuity.** "Annuity" means a retirement annuity, optional survivors annuity, or spouse's annuity.

[Subd. 27.] **Benefit.** *“Benefit” means an allowance paid or payable by the fund to a surviving dependent spouse or a dependent child which is a fixed amount and also includes an allowance paid or payable by the fund to a member or former member who is permanently and totally disabled.*

[Subd. 28.] **Retirement.** *“Retirement” means the withdrawal of a member from active public service who is paid a retirement annuity thereafter and commences with the date designated by the retirement board when the retirement annuity shall first accrue to the former member after his withdrawal from active public service. This date shall determine any rights specified in this chapter which occur either before or after retirement, as the case may be.*

[Subd. 29.] **Designated beneficiary.** *“Designated beneficiary” means the person designated by a member to receive the balance of his accumulated deductions after death. If the member had failed to designate such a person or if the person designated predeceased the member, beneficiary in such cases means the estate of the deceased member.*

Sec. 8. Minnesota Statutes 1957, Section 353.03, Subdivision 1, is amended to read:

Subd. 1. **Management.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 12 members, who shall be known as the board of trustees. This board shall consist of the state auditor, the state insurance commissioner, the state treasurer, and nine other trustees who shall be elected from the membership by the members of the retirement association at a time and in a manner to be fixed by the board. Members of the board so elected shall hold office for a term of three years and until their successors are elected and qualified. Present members of the board of trustees shall serve for the terms for which they were elected. *It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivision which aid in financing it and the public employees who are its beneficiaries.*

Sec. 9. Minnesota Statutes 1957, Section 353.13, is amended to read:

353.13 Annuities; commencement and payment. All retirement annuities granted under the provisions of this chap-

ter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and paid in equal monthly installments commencing one month thereafter and continuing only during the lifetime of the annuitant, and shall not be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive beyond the first day of the calendar month in which application therefor shall be filed.

Sec. 10. Minnesota Statutes 1957, Section 353.26, Subdivision 1, is amended to read:

Subdivision 1. The public employees retirement association created by Laws 1931, Chapter 307, as amended, is confirmed and continued. The *membership* in the association shall consist only of public employees. Any person who was a member of the association on June 30, 1957, shall continue his membership with the association.

Sec. 11. Minnesota Statutes 1957, Section 353.26, Subdivision 2, is amended to read:

Subd. 2. *Every public employee not a member of the association on July 1, 1957, becomes a member by acceptance of public employment or continuance in public service. Acceptance of employment is deemed consent to have deductions made from salary for deposit to the credit of the member's account in the fund.*

Sec. 12. Minnesota Statutes 1957, Section 353.27, Subdivision 6, is amended to read:

Subd. 6. All contributions shall be credited to a fund and all interest and other income of the association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities *and other benefits* herein provided shall be paid only from said fund.

Sec. 13. Minnesota Statutes 1957, Section 353.29, Subdivision 1, is amended to read:

353.29 Subdivision 1. After separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ten years of allowable service, or any person who has attained the age of at least 58 years and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement *annuity*.

Sec. 14. Minnesota Statutes 1957, Section 353.29, Subdivision 2, is amended to read:

Subd. 2. The retirement annuity hereunder *payable at age 65 or thereafter* shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of *the* member's average salary for the period of his allowable service. *Such retirement annuity is known as the "normal" retirement annuity.*

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions were based for any five consecutive years prior to that date;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contributions to the retirement fund;

(c) *Average salary in no case shall exceed \$4,800 per year, except that this limitation shall not apply in any case where a member has made payments into the fund between April 29, 1957, and July 1, 1958, under the provisions of section 353.36.*

Sec. 15. Minnesota Statutes 1957, Section 353.29, Subdivision 3, is amended to read:

Subd. 3. The average salary, as defined in subdivision 2, of any member multiplied by the applicable percentages indicated below shall determine the amount of the *retirement annuity* to which the member qualifying therefor is entitled:

Years of Allowable Service	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years or completed months of service less than such period	2 percent per year of service
(c) Third ten years or completed months of service less than such period	2½ per cent per year of service
(d) Subsequent years or completed months of service less than such period	3 percent per year of service

Sec. 16. Minnesota Statutes 1957, Section 353.39, Subdivision 4, is amended to read:

Subd. 4. Retirement may be made upon application of the member or of someone *authorized to act* in his behalf.

Sec. 17. Minnesota Statutes 1957, Section 353.30, Subdivision 1, is amended to read:

353.30 Subdivision 1. Where any member retires prior to age 65, he shall be paid a *retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-half of one percent for each month that the member is under age 65 at the time of retirement.*

Sec. 18. Minnesota Statutes 1957, Section 353.30, is amended by adding a new subdivision to read:

[Subd. 4.] *Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the board of trustees, provided that such person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which he would be otherwise entitled to receive and the monthly payment which he will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which such person would otherwise have received. Upon application of the person who is entitled to such monthly payment to the board of trustees it may be increased to not more than the amount to which such person was originally entitled to receive monthly but such person shall not be entitled to receive or to have any claim for any money which was not paid to him by reason of said reduction in such monthly payments.*

Sec. 19. Minnesota Statutes 1957, Section 353.31, Subdivision 1, is amended to read:

353.31 Subdivision 1. Upon the death of a member before retirement who has had at least 18 months of credited allowable service, his surviving *dependent* spouse and dependent children under the age of 18 shall receive the monthly benefit provided below.

- (a). Surviving *dependent* spouse \$65 per month
- (b) Each dependent child \$45 per month

In addition to the amounts provided in (a) and (b) hereof, \$20 per month shall be paid to be divided equally among the dependent children. Payments for the benefit of any dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$200 for any one family. The surviving *dependent* spouse benefit shall terminate upon his or her remarriage, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Sec. 20. Minnesota Statutes 1957, Section 353.31, Subdivision 3, is amended to read:

Subd. 3. *If any person dies after he has either (1) qualified for disability benefits under section 353.33 or (2) retired under the provisions of section 353.29 or 353.30, there shall be paid to his surviving spouse an amount equal to the annuity for the entire month in which death occurs, if no optional or reversionary annuity was designated by the member.*

Sec. 21. Minnesota Statutes 1957, Section 353.33, is amended to read:

353.33 Permanent disability benefits. Subdivision 1. Where any member becomes totally and permanently disabled after 10 years of allowable service or after age 50 *with five years of allowable service*, whichever is sooner, he shall be entitled to a disability benefit in an amount provided in subdivision 2. If such disabled person's public service has terminated at any time, at least five of the required ten years of allowable service must have been rendered after last becoming a member. If a disabled person receives disability benefits under the provisions of the federal Social Security Act, his benefits computed under subdivision 2 shall be reduced by the amount of disability benefits paid under the federal act.

Subd. 2. If written application for disability benefit has not been filed with the board within 90 days from the commencement of disability, the *disability benefit* shall begin to accrue as of the day 30 days prior to the receipt of such application. If salary is being received for either annual or sick leave during said 30-day period, payments shall accrue from the date salary ceases. This benefit shall begin to accrue

upon the expiration of 90 days following the commencement of disability unless the member is receiving salary for either annual or sick leave for a period of more than 90 days in which event payment shall accrue from the date salary ceased. This disability benefit is an amount equal to the normal annuity payable to a member who has reached age 65 with the same number of years of allowable service and the same average salary, as provided in section 353.29 plus a supplementary monthly benefit computed in accordance with the following table:

Age when Disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

Subd. 3. A member shall be considered totally and permanently disabled after the board has received written certification by at least two licensed physicians selected by the board, that the member is totally and likely to be permanently disabled for further performance of the duties of any assigned position in the service of the employer, and upon consideration on the report of such physicians and such other evidence as shall have been presented to it by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant him a disability benefit upon written certification from the employer that the member has been separated from the service of the employer because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the employer. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar him from receiving a disability benefit. Any person receiving a disability benefit shall not be required to undergo a medical examination after reaching the age of 65.

Subd. 4. The disability benefit shall be reduced by any

amounts received or receivable by a member from the employer under applicable workmen's laws.

Subd. 5. At least once each year during the first five years following the allowance of a disability *benefit* to any member, and at least once in every three-year period thereafter, the board shall require the *person disabled* to undergo a medical examination to be made at the place of residence of *such person*, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that he is no longer physically or mentally incapacitated for service, or that he is engaged or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued as soon as he is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after physicians engaged by the board find that *such person* is no longer incapacitated for service.

Subd. 6. Should such disabled *person* resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is lower, *provided the disability benefit in such case does not exceed the disability benefit originally allowed.*

Subd. 7. Should any such disabled *person* refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability *benefit* shall be revoked by the board.

Subd. 8. Any *person receiving a disability benefit* who is restored to active *public service* shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement *annuity* based upon all allowable service including that upon which the disability *benefits were* based. No person shall be entitled to receive disability benefits and a retirement *annuity* at the same time.

Sec. 22. Minnesota Statutes 1957, Section 353.34, Subdivision 1, is amended to read:

353.34 Subdivision 1. Any *person* who ceases to be a public employee by reason of termination of public service, shall be entitled to a refundment provided in subdivision 2, or a deferred retirement annuity as provided in subdivision

3. Application for refundment may be made no sooner than 30 days after termination of public service if the applicant has not again become a public employee.

Sec. 23. Minnesota Statutes 1957, Section 353.34, Subdivision 3, is amended to read:

Subd. 3. Any person with *at least* ten years of allowable service when such termination occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65. This annuity shall be computed in the manner provided in section 353.29 on the basis of allowable service prior to termination of service. *Such person may revoke this option at any time prior to the commencement of annuity payments by filing a written statement with the board and making application for a refund. Such person shall be entitled to a refund of his accumulated deductions within 30 days thereafter.*

Sec. 24. Minnesota Statutes 1957, Section 353.34, Subdivision 4, is amended to read:

Subd. 4. Former members who hold numbered certificates of deferred annuity and who again become members of the retirement association shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates. Former members who hold numbered certificates of deferred annuity may surrender them at any time prior to receiving an annuity and receive a refundment of their accumulated deductions upon application. Membership in the retirement association of any person shall terminate upon his ceasing to be a "public employee" whether by resignation, dismissal or termination of temporary or provisional appointment *or death.*

Sec. 25. Minnesota Statutes 1957, Section 353.36, is amended to read:

353.36 Payments in lieu of salary deductions; credit for prior service. Subdivision 1. After *July 1, 1961*, no member shall be entitled to make payments in lieu of salary deductions to the retirement board *of trustees* to receive credit for any period of service prior to that date for which employee contributions were not deducted from his salary. Prior to that date credit for such service may be received in the manner provided in this section. After that date credit can only be received for services rendered for which employee contributions are made as a deduction from salary, except as provided in sections *353.35 and 353.39.*

Subd. 2. From July 1, 1957, until *July 1, 1961*, any member may make payments to receive credit in any case where these payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The amount of these payments, however, shall be six percent of the average salary for each year for which credit is sought. The member shall pay in addition interest at the rate of four percent per annum compounded annually from the year of service purchased to the date payment is made. The retirement board may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off date. *Each employing governmental subdivision shall match all payments made pursuant to this subdivision on a pro rata basis of past service rendered to each governmental subdivision. The board shall determine the amounts due and certify these amounts to the particular governmental subdivision involved.* Any governmental subdivision making the employer contribution herein provided is hereby authorized to appropriate money for such purpose.

Subd. 3. Before July 1, 1957, any member may make payments to the board of *trustees* to receive credit in any case where the payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The board of *trustees* may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off date. The amount of payment and interest rate charged to the member shall be as provided in Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815.

Subd. 4. Service credits as provided in this section may not be purchased in excess of ten years.

Sec. 26. Minnesota Statutes 1957, Section 353.37, is amended to read:

353.37 Limitation on eligibility for benefits. A person otherwise eligible for retirement benefits under this chapter may not receive or be paid an annuity if he (a) re-enters public service as an officer or employee of a political subdivision, or becomes a state employee as defined in Chapter 352 if such service exceeds 60 days in any 12 or more consecutive months, or (b) he is receiving any other retirement benefit or pension authorized by law for public employees or state employees, if contributions therefor had been required from that person and if any period of public service required for benefits under this chapter was requisite in establishing eligibility for this

other retirement benefit or pension. The monthly annuity payment is suspended during the ineligibility of any person by reason of this subdivision. Payment for a full month is suspended for any portion of a month in which this ineligibility exists. Upon proper showing by an annuitant that this ineligibility no longer exists the retirement board shall order that the monthly annuity payments be resumed. Public service performed by any annuitant subsequent to his application for a retirement annuity under this chapter does not increase or decrease any benefit when payments thereof are resumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service. Provided, however, that the foregoing shall not apply to any benefits authorized by federal law to which any public employee and public official may be entitled.

Sec. 27. Minnesota Statutes 1957, Section 353.46, Subdivision 1, is amended to read:

353.46 Subdivision 1. Any person who on July 1, 1957, has ten or more years of allowable service and whose deductions from salary continue at the rate in effect under Laws 1957, Chapter 935, shall have the option when he retires to receive the retirement benefits computed under Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or the benefits computed under Laws 1957, Chapter 935.

Sec. 28. [353.60] **Fee officers — optional membership — contributions.** *Subdivision 1. Any appointed or elected officer of a governmental subdivision who is a public employee within the meaning of section 353.01 and is a member of the fund and whose salary is paid in whole or in part from revenue derived by fees and assessments, shall pay to his employee contribution in the manner provided in this Chapter. The employer contribution as provided in section 353.27, subdivision 3, and the additional contribution to amortize the deficit in the fund as provided in section 353.27, subdivision 5, with respect to such service shall be paid by the governmental subdivision. All contributions shall be paid currently.*

Subd. 2. The employer contribution and the additional contribution to amortize the deficit in the fund provided in sections 353.36, subdivision 6, 353.27, subdivisions 3 and 5, due with respect to the services of any public employee who is employed by an appointed or elected officer of a governmental subdivision who derives revenue from fees or assessments, shall be paid by the governmental subdivision.

Sec. 29. [353.61] Retirement annuity, member at least 65 with 5 to 10 years allowable service. *Any member who has attained the age of at least 65, has acquired at least five but less than ten years of allowable service, was at least 60 years of age on June 30, 1957, was a member of the fund and had five years of allowable service on June 30, 1957, shall upon written application be entitled to a retirement annuity computed in the manner provided in section 353.29, except that the percentage rate shall be 2% per year of allowable service and except that such member shall be entitled to this annuity notwithstanding the fact that he has not acquired ten years of allowable service.*

Sec. 30. [353.62] Non-employee membership abolished. *Subdivision 1. On the effective date of this act all non-employee membership in the public employee retirement association shall terminate regardless of the date when such status was acquired and membership in the association shall not be afforded to any person thereafter who is not a public employee within the meaning of section 353.01, subdivision 2. Prior to the effective date of this act, the rights of any non-employee member who has paid into the fund shall not be impaired except as provided in subdivision 2 hereof.*

Subd. 2. Any person who held the status of a non-employee member shall be entitled to a refundment of his accumulated deductions at any time, as provided in section 353.34, subdivision 2, or a deferred annuity as provided in section 353.34, subdivision 3, except that any such person who on July 1, 1957, had 10 or more years of allowable service as an employee member of the fund shall be entitled also to the options provided in section 353.46 if he otherwise qualifies. Any person whose majority of years of membership or last membership in the fund has been in the status of non-employee member or any person claiming rights through such non-employee member shall be entitled only to the annuities specified in this subdivision.

Sec. 31. [353.63] Policy. *It is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protecting the property and personal safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivors benefits based on the particular dangers inherent in these occupations. The benefits provided in sections 31 to 36 are more costly than similar benefits for other public employees since they are computed on the basis of a shorter work-*

ing lifetime taking into account experience which has been universally recognized. This extra cost should be borne by the employee and employer alike at the ratio of 40 percent employee contributions and 60 percent employer contributions.

Sec. 32. [353.64] Membership. *Subdivision 1. Any police officer or fire fighter employed on July 1, 1959, has the option to become a member of the public employees police and fire fund by executing an application furnished by the board and by otherwise complying with the provisions of sections 31 to 36. The application shall be made no later than July 1, 1960. Any police officer or fire fighter who by virtue of his employment is required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision shall not be a member of this fund.*

Subd. 2. Except as provided in Subdivision 1 hereof any police officer or fire fighter newly employed after July 1, 1959, shall become a member of the public employees police and fire fund upon the acceptance of such employment.

Sec. 33. [353.65] Contributions. *Subdivision 1. There is a special fund known as the "Public Employees Police and Fire Fund". In that fund there shall be deposited employee contributions, employer contributions and other amounts authorized by law including all employee and employer contributions of members transferred.*

Subd. 2. The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. No deduction shall be made from any salary in excess of \$4,800 in any calendar year. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received limited to \$4,800 in any calendar year.

Subd. 3. The employer contribution to the fund shall be an amount equal to nine percent of the salary of each member not exceeding \$4,800 in every calendar year commencing July 1, 1958. This contribution shall be made in the manner provided in section 353.28.

Subd. 4. The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted in the manner and subject to the terms provided in section 353.27, subdivision 4.

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision in the manner provided in section 353.28.

Subd. 6. All contributions shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

Sec. 34. [353.66] **Retirement annuity.** Subdivision 1. After separation from public service, any police officer or fire fighter member who has attained the age of at least 58 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity.

Subd. 2. The retirement annuity hereunder payable at age 58 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof on the basis of the member's average salary for the period of his allowable service. Such retirement annuity is known as the "normal retirement annuity".

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions were based for any five consecutive years prior to that date limited to \$4,800 per year;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contribution to the retirement fund by payroll deduction;

(c) Average salary in no case shall exceed \$4,800 per year.

Subd. 3. The normal annuity for any member shall be computed by multiplying his average salary times two percent per year of allowable service for the first 30 years of service and one percent per year of service thereafter.

Sec. 35. [353.67]. **Retirement may be made upon application of the member or someone authorized to act in his behalf.**

Sec. 36. [353.68] Scope and application. *Subdivision 1. The general provisions of Minnesota Statutes, Chapter 353, apply to all police officers and fire fighters who are members of the police and fire fund and also to all governmental subdivisions employing such members except where otherwise specifically provided in sections 31 to 36.*

Subd. 2. The computations of the disability benefits of section 353.33, subdivision 2, as they apply to members of the police and fire fund shall be equal to the normal annuity based on the person's age when disabled, provided in section 34, plus a supplementary monthly annuity computed in accordance with the following table:

<i>Age when Disabled</i>	<i>Supplementary Benefit</i>
<i>Under 51</i>	<i>50</i>
<i>51</i>	<i>44</i>
<i>52</i>	<i>38</i>
<i>53</i>	<i>32</i>
<i>54</i>	<i>26</i>
<i>55</i>	<i>20</i>
<i>56</i>	<i>12</i>
<i>57</i>	<i>6</i>

Subd. 3. If a member of the police and fire fund is permanently and totally disabled in the line of duty regardless of his age or years of service when disabled, he shall be paid a disability benefit in an amount equal to 40 percent of his average salary as defined in section 34. Except as specifically provided in this subdivision, all other terms and conditions of section 353.33 shall apply to establish qualifications in these cases of special line of duty disability.

Subd. 4. The deferred annuity of section 353.34, subdivision 3, as it applies to members of the police and fire fund shall commence at age 58 and shall be computed in the manner provided in section 34 on the basis of allowable service prior to termination of service.

Subd. 5. The survivors annuity of section 353.31, subdivision 2, shall be paid in behalf of members of the police and fire fund under the following terms and conditions: Upon the death of a member before retirement who has had at least 20 years of allowable service, his surviving spouse shall be paid a deferred annuity in an amount equal to 75 percent of the member's normal annuity provided in section 35 not to exceed \$150 per month. If at the time of death the member was under

58 years of age, his normal annuity shall be reduced one-half of one percent for each month that he was under age 58. This annuity shall be paid when the surviving spouse reaches the age of 62 and shall terminate upon remarriage. The surviving spouse has the option, if qualified, to receive the annuity provided in this subdivision or the benefit provided in section 353.31, subdivision 1, but not both.

Sec. 37. Minnesota Statutes 1957, Section 353.27, Subdivision 5, is amended to read:

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year (commencing July 1, 1958, to June 30, 1959, and each year thereafter) for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision in the manner provided in section 352.28. This subdivision takes effect July 1, 1959.

Sec. 38. Minnesota Statutes 1957, Section 353.35, is amended to read:

353.35 Restoration of rights and benefits. When any member accepts a refundment all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored until the former member acquires not less than five years allowable service credit subsequent to taking his last refundment. In that event he may repay all refundment taken plus interest at four percent per annum compounded annually. If more than one refundment has been taken, all refundments must be repaid with interest at four percent per annum compounded annually.

Sec. 39. Minnesota Statutes 1957, Section 353.01, Subdivision 4, is amended to read:

Subd. 4. **Accumulated deductions.** "Accumulated deductions" means the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his individual account in the retirement fund *including also payments made by a member pursuant to the provisions of Laws 1937, Chapter 466, Section 2; Laws 1947, Chapter 18, Section 2, or any rules made by the retirement board pursuant thereto, without interest.*

Sec. 40. Minnesota Statutes 1957, Section 353.26, Subdivision 3, is amended to read:

Subd. 3. Any elected public officer or any person appointed to fill a vacancy in an elective office within any governmental subdivision shall have the right to exercise an option to become a member, but such option, once exercised, may not be withdrawn during the incumbency of such person in office. Such person may exercise this option by filing a request with the retirement board.

Sec. 41. Minnesota Statutes 1957, Section 353.33, is amended by adding a new subdivision to read :

[Subd. 9.] *Any member, other than a non-employee member, who on June 30, 1957 (1) was totally and permanently disabled, (2) had contributed to the retirement fund, either by salary deductions or assessments to and including June 30, 1957, or who was on authorized leave on June 30, 1957, (3) had made application for disability benefits, and who (4) met the allowable service or age requirements of this subdivision, as of June 30, 1957, shall be entitled to the benefits provided by this section retroactive to July 1, 1957.*

Sec. 42. Minnesota Statutes 1957, Section 353.32, is amended by adding a new subdivision to read :

[Subd. 5.] *A beneficiary, legal representative, or next of kin shall be paid on demand the full amount of any additional penalty paid into the retirement fund by the deceased member in accordance with the provisions of Laws 1937, Chapter 466, Section 2; Laws 1947, Chapter 18, Section 2, or any rules made by the retirement board pursuant to these laws, without interest thereon unless the additional penalty was previously refunded upon retirement of the said member.*

Sec. 43. Minnesota Statutes 1957, Section 353.01, Subdivision 15, is amended to read :

Subd. 15. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member under the age of 18, unmarried and actually dependent for more than one-half of his support upon such member at the time of death and for not less than ninety days prior thereto. It also includes any child of the member conceived during his lifetime and born after his death in any case where a member died after July 1, 1957.

Sec. 44. Minnesota Statutes 1957, Section 353.17, is amended to read :

353.17 Moneys credited to retirement fund. The retirement board is hereby authorized and empowered to credit

to the fund any moneys received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise. *If a former public employee does not apply for refundment within five years after the last deduction was taken from his salary for the retirement fund, and the total amount of his accumulated deductions is not over \$25, such accumulated deductions shall be credited to and become a part of the retirement fund.* Refundable accumulated deductions of any member, if unclaimed for a period of five years after separation from the public service, shall be credited to a donations suspense account. The retirement board is authorized to pay refunds of accumulated deductions, without interest, from such donations suspense account, upon proper application therefor. After the refundable accumulated deductions of any former member have remained in such donations suspense account for a period of 10 years, without application for a refund thereof having been made, they shall be transferred to and credited to the retirement fund proper. *In the event the former public employee should return to public service, the amount so credited to the retirement fund shall be restored to his individual account.*

Sec. 45. Minnesota Statutes 1957, Section 353.28, Subdivision 2, is amended to read:

Subd. 2. Not later than September 30 of each year beginning with 1957, the total amount due from each governmental subdivision shall be determined by the retirement board and certified *in duplicate* by the secretary or an authorized officer of the board to each auditor of each county whose responsibility it is to furnish one copy to each governmental subdivision within the confines of his county. This certification covers a period of 12 months ending on June 30th immediately preceding.

Sec. 46. Minnesota Statutes 1957, Section 353.28, Subdivision 8, is amended to read:

Subd. 8. For the purposes of this section only, the state of Minnesota is considered a governmental subdivision and assumes a liability with respect to legislative officers who are members for any year for which a certification may be made pursuant to the provisions of this section. The certification in such case shall be made to the state auditor who shall transmit the certification to the next regular session of the legislature for appropriate action. *Further, for the purposes of this section only, the League of Minnesota Municipalities is considered a governmental subdivision and assumes a liability with respect to its public employees who are members for any year for*

which a certification may be made pursuant to the provisions of this section.

Sec. 47. Minnesota Statutes 1957, Section 353.31, Subdivision 2, is amended to read:

Subd. 2. Upon the death of a member before retirement who has had at least 20 years of credited allowable service, his surviving *dependent* spouse shall be paid a deferred annuity in an amount equal to 75 percent of the members annuity computed on the basis provided in sections 353.29 and 353.30 not to exceed \$150 per month. This annuity shall be paid when such surviving *dependent* spouse reaches the age of 62 and shall terminate upon remarriage. The surviving *dependent* spouse has the option, if qualified, to receive the benefits provided in subdivisions 1 or 2 but not both.

Sec. 48. Minnesota Statutes 1957, Section 353.32, Subdivision 2, is amended to read:

Subd. 2. If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refundment, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refundment within five years from the date of death of the member or former member, the accumulated deductions to his credit at the time of death shall be *disposed of in the manner provided in section 353.17*.

Sec. 49. Minnesota Statutes 1957, Section 353.34, Subdivision 2, is amended to read:

Subd. 2. Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refundment in an amount equal to his accumulated *deductions* without interest.

Sec. 50. Minnesota Statutes 1957, Section 353.39, is amended to read:

353.39 Military service credit. Any employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, section 192.262 *may* obtain credit for his period of military service, but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member *may* obtain such credit by paying into the fund an employee contribution based

upon his salary at the date of return from military service. The amount of this contribution shall be six percent of his salary not to exceed \$4,800 in any fiscal year plus interest at four percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 353.27 shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor and such contributions shall be made at the time and in the manner provided in section 353.27.

Sec. 51. Minnesota Statutes 1957, Section 353.53, Subdivision 1, is amended to read:

353.53 Subdivision 1. The retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in subdivision 2 hereof on the basis of each member's average salary for the period of his allowable service.

(a) For years prior to July 1, 1957, average salary for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions are based for any five consecutive years prior to that date.

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contributions to the retirement fund by payroll deductions.

(c) *Average salary in no case shall exceed \$4,800.*

Sec. 52. Minnesota Statutes 1957, Section 353.53, Subdivision 2, is amended to read:

Subd. 2. The average salary, as defined in subdivision 1, of any member multiplied by the applicable percentages indicated below shall determine the amount of the annuity to which the member qualifying therefor is entitled:

Years of Allowable Service:	Percentages at the Rate of:
(a) First ten years	$1/2$ of 1 percent per year of service
(b) Second ten years of completed months of service less than such period	1 percent per year of service.

- (c) Third ten years of completed months of service less than such period 1.25 percent per year of service.
- (d) Subsequent years of completed months of service less than such period 1.50 percent per year of service.

Sec. 53. Minnesota Statutes 1957, Section 353.58, is amended to read:

353.58 Military service credit. After any agreement or modification is made pursuant to section 353.59, an employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, section 192.262, may obtain credit for his period of military service but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be three percent of his salary not to exceed \$4,800 in any fiscal year. In such cases the matching employer contribution and additional contribution shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor.

Sec. 54. Minnesota Statutes 1957, Section 353.38, is amended to read:

353.38 Rights limited. Nothing done under the terms of *Minnesota Statutes, Chapter 353 and acts amendatory thereof* shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association through separation from the public service, the accumulated deductions, as by law defined, standing to his credit on the books of the association.

Sec. 55. Minnesota Statutes 1957, Section 353.42, is amended to read:

353.42 Salary for calendar month. Any salary paid for a fractional part of any calendar month is deemed compensation for the entire calendar month unless *public* service has terminated.

Sec. 56. [353.69] **Officers or employees of munic-**

ipality not covered; option of former members. Any former member who is an elected official or an employee of a municipality not covered by the public employees retirement association, has the option to continue his membership in the association for any period of service with the municipality. This option applies to future service as well as past service. Any person desiring to exercise this option shall make application to the board, shall designate the period of service for which he desired coverage and shall pay the employee contribution to the fund for such service at the rate of six percent of salary limited to \$4,800 per year. The municipality shall pay a matching amount plus the amount to amortize the deficit in the fund in the manner provided in sections 352.27 subdivision 5, 353.28. Contributions for any past service shall be paid with interest at the rate of four percent per annum compounded annually. Notwithstanding any provision to the contrary, no such person shall be entitled to credit for service with the public employees retirement association if for the same period of service he receives credit with any other public retirement or pension plan maintained by the municipality.

Sec. 57. Minnesota Statutes 1957, Section 353.26, Subdivision 4; 353.29, Subdivision 5; 353.41; 353.43; 353.53, Subdivisions 3 and 4, are hereby repealed.

Sec. 58. [482.23] Public employees retirement board, change of name. The revisor of statutes is hereby authorized to change the name of the retirement board appearing in chapter 353 to the board of trustees.

Approved April 24, 1959.

CHAPTER 651—H. F. No. 1257

[Coded]

An act relating to public employees retirement association, providing for benefits for surviving spouse and dependent children; amending Minnesota Statutes 1957, Section 353.31, by adding new Subdivisions.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 353.31, is amended by adding new subdivisions thereto numbered 4 and 5, to read:

Subd. 4. Whenever subsequent to April 29, 1957, but