
CHAPTER 648-H.F.No.2025

[Not Coded]

An act relating to the city of Chisholm; police and firemen's relief associations; reversion of funds and bond of treasurer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. CHISHOLM RELIEF ASSOCIATIONS; REVERSION OF FUNDS.

When all obligations of the special fund of the Chisholm police relief association or of the special fund of the Chisholm firemen's relief association have been paid, any balance remaining in each fund shall be transferred to the city treasury for use as the city council shall determine.

Sec. 2. CHISHOLM RELIEF ASSOCIATIONS; BONDING OF TREASURER.

The bylaws of the Chisholm police relief association and of the Chisholm firemen's relief association shall be amended to require a \$100,000 bond for the treasurer of each association or, in the alternative, that all warrants, checks, or vouchers for the disbursement of funds of the association be co-signed by the city clerk treasurer.

Sec. 3. This act is effective upon approval by the Chisholm city council and upon compliance with Minnesota Statutes, Section 645.021.

Approved March 28, 1978.

CHAPTER 649-H.F.No.2041

[Coded in Part]

An act relating to labor and employment; prohibiting mandatory retirement of public or private employees before the age of 70; rights and remedies of employees; amending Minnesota Statutes 1976, Sections 356.32; 422A.13, Subdivision 2; 423.075, Subdivision 1; and Chapters 181, by adding a section; 423, by adding a section and Minnesota Statutes, 1977 Supplement, Sections 43.051, Subdivision 1; 363.02, Subdivision 6; 422A.09, Subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes, 1977 Supplement, Section 43.051, Subdivision 1, is amended to read:

43.051 AGE FOR RETIREMENT, Subdivision 1. ~~Notwithstanding the provisions of sections 197.45, 197.46, 197.47, 43.30, effective July 1, 1974, an officer or employee of the state of Minnesota in the classified or unclassified service of the state civil service and who is subject to the provisions of the Minnesota state retirement system must retire from~~

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his employment by the state if such officer or employee has reached the age of 68 prior to July 1, 1974; or upon reaching the age of 68. Effective July June 1, 1975 1980, an officer or employee of the state of Minnesota in the classified or unclassified service of the state civil service, and an employee in the unclassified service who is subject to the provisions of the Minnesota state retirement system must retire from his employment by the state if such officer or employee has reached the age of 65 prior to July 1, 1975; or upon reaching the age of 65 70 - The mandatory retirement age for all other classified officers and employees of the state; except as provided in section 354.44, subdivision 1a, or if not otherwise provided for by other law; shall be 70. Nothing in this subdivision shall apply to persons in the legislative branch or judicial branch.

Sec. 2. Minnesota Statutes 1976, Chapter 181, is amended by adding a section to read:

[181.81] Subdivision 1. (a) Designated retirement date, when used in this section, means the date, if any, which the employer, or the employer and employee or his representative jointly, designate as the date on which all affected employees must cease service unless the employee exercises the option granted by this section to continue service.

(b) It is unlawful for any employer, public or private, excluding the United States government and any of its instrumentalities, to refuse to hire or employ, or to discharge, dismiss, reduce in grade or position, or demote any individual on the grounds that the individual has reached a designated retirement age, except in cases where federal statutes or rules or other state statutes, not including special laws compel or specifically authorize such action. Nothing in this section shall prohibit compulsory retirement of employees who have attained 70 years of age or more; provided further that nothing in this section shall prohibit compulsory retirement of a professional, executive, or administrative employee, as defined in rules promulgated pursuant to chapter 177, who has attained at least 65 years of age and who is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan of an employer plus any social security benefit, or any combination of these benefits which totals in the aggregate at least \$27,000. If the retirement benefit is in a form other than a straight life annuity, the equivalent annualized payment value of the benefit shall be actuarially determined according to rules promulgated by the commissioner of labor and industry. Pilots and flight crew members shall not be subject to the provisions of this section or section 363.02, subdivision 6, but shall be retired from this employment pursuant to standards contained in regulations promulgated by the federal aviation administration for airline pilots and flight officers and are subject to the bona fide occupational requirements for these employees as promulgated by the federal aviation administration.

(c) Every employer shall notify an employee in writing at least 90 days but no more than 120 days prior to the employee's designated retirement date, if any, of the option to continue employment beyond that date. The notice shall state in a conspicuous manner that the employee must respond to the notice within 30 days or the right to continue employment beyond the designated retirement date may be waived. If the employee notifies the employer in writing within 30 days after the receipt of the notice by the

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employee of the employee's desire to continue employment beyond the designated retirement date the employer must allow continued employment consistent with the requirements of this section. Employment shall continue for as long as the employee desires or until the employer demonstrates that the employee no longer can meet the bona fide requirements, consistently applied, for the job or position or until the employee reaches the compulsory retirement age established by the employer.

(d) Regardless of whether or not a designated retirement date as defined in clause (a) exists for an employee, if there exists a date on which the accrual of pension benefits or credits, or the contributions therefor by the employee or the employer, or the employee's employment related health and welfare benefits or insurance coverages are diminished or eliminated by virtue of the employee attaining a certain age, the employer shall notify the employee of the changes at least 90 but not more than 120 days prior to the effective date of the change. If a designated retirement date exists for an employee and that date is the same as the date on which pension credit accrual or health and welfare benefits or contributions are modified the notice required by this clause shall be given contemporaneously with the notice required in clause (c). This section, in and of itself, shall not be construed to require any change in the employer contribution levels of any pension or retirement plan, or to require any employer to increase an employer's or employee's payments for the provision of insurance benefits contained in any employee benefit or insurance plan.

Subd. 2. (a) The commissioner of labor and industry shall advise any inquiring parties, employee or employer, of their rights and duties under this section. Further, the commissioner may attempt to conciliate any disputes between employees and employers over the application of or alleged violations of this section.

(b) Any party aggrieved by a violation of this section may bring suit for redress in the district court wherein the violation occurred or in the district court wherein the employer is located. If a violation is found the court in granting relief may enjoin further violations and may include in its award reinstatement or compensation for any period of unemployment resulting from the violation together with actual and reasonable attorneys fees, and other costs incurred by the plaintiff.

(c) When an action is commenced alleging a violation of this section the plaintiff may in the same action allege a violation of Minnesota Statutes, Chapter 363, and seek relief under that chapter if all the procedural requirements of chapter 363 have been met. Alternatively, when a charge is filed or an action commenced alleging a violation of Minnesota Statutes, Chapter 363, the plaintiff may in the same action allege a violation of this section and seek relief under this section. In either case, when determining whether or not a violation of Minnesota Statutes, Chapter 363, has occurred the court shall incorporate the substantive requirements of this section into any duties and rights specified by Minnesota Statutes, Chapter 363.

Sec. 3. Minnesota Statutes 1976, Section 356.32, Subdivision 1, is amended to read:

356.32 PROPORTIONATE ANNUITY IN CERTAIN CASES. Subdivision 1.
PROPORTIONATE RETIREMENT ANNUITY. Notwithstanding any provision to the
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contrary of the laws governing any of the retirement funds ~~enumerated~~ referred to in subdivision 2, any person who is employed in a position covered by any such fund, who has credit for at least three years but less than ten years of allowable service in such fund or a combination of such funds, and who is required to terminate service at age 65 or earlier pursuant to a mandatory retirement statute ~~or a uniformly applied mandatory retirement policy established by the employer, or who terminates service at age 65 or older for any reason~~ shall be entitled upon application to a proportionate retirement annuity from each such fund in which he has allowable service credit, based upon his allowable service credit at the time of mandatory retirement; provided, however, that ~~nothing in this section shall prevent the actuarial reduction of an annuity for which application is made prior to normal retirement age.~~

Sec. 4. Minnesota Statutes, 1977 Supplement, Section 363.02, Subdivision 6, is amended to read:

Subd. 6. **AGE.** By law or published retirement policy, a mandatory retirement age may be established without being a violation of chapter 363 if it is established consistent with section 2 of this act. Nothing in this chapter nor in section 2 of this act shall prohibit employee pension and retirement plans from granting pension credit to employees over the age of 65 at a lesser rate than is granted to other employees, provided that in no event may an employee's accumulated pension credits be reduced by continued employment, and further provided that no other state or federal law is violated by the reduced rate of pension credit accrual. Nothing in this chapter shall be construed to prohibit the establishment of differential privileges, benefits, services or facilities for persons of designated ages if (a) such differential treatment is provided pursuant to statute, or (b) the designated age is greater than 59 years or less than 21 years.

Sec. 5. Minnesota Statutes, 1977 Supplement, Section 422A.09, Subdivision 3, is amended to read:

Subd. 3. The exempt class shall consist of:

(1) Employees who are members of any other organization or association of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position. Provided that any elective officer holding an elective city office, excepting judges of a municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter

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hold elective office, first being appointed to that elective office in Hennepin county in which they served as an elected official, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution. The employer cost of allowances and benefits credited to an elected officer as set forth above shall be paid from the county revenue fund by the proper county officials upon certification of such costs by the retirement board in the same manner as prescribed in section 422A.08 for the payment of costs by public corporations. A tax shall be levied by Hennepin county to defray the cost of such retirement allowances which may be in addition to all other taxes levied by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first became eligible for membership in the fund, in accordance with the method of contribution herein provided for, plus four percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as doorkeepers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who are contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(5) A person who is exempted from the contributing class by Minnesota Statutes 1974, Section 422A.09, Subdivision 3, Clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation as herein defined, and including any person employed by the Minneapolis school district, each of whom are not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify such time for credit by paying into the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first qualified as an exempt member of the contributing class, in accordance with the method of contribution herein provided, plus four percent compound interest.

(6) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation, as herein outlined, and is excluded from participation in the fund by paragraph (4) shall be separated from the service upon reaching the age of 65 ~~70~~ regardless of the provisions of the veterans preference act.

Sec. 6. Minnesota Statutes 1976, Section 422A.13, Subdivision 2, is amended to read:

Subd. 2. Subject to the limitations stated in sections 422A.01 to 422A.25, any employee in the contributing class who shall have been employed by the city for ten or

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more years and shall have attained the established age for retirement, or shall have been employed by the city for 30 or more years all as determined by the retirement board, shall be entitled to retire. Any employee in the contributing class shall be retired upon reaching the age of 65 70 regardless of the provisions of the veterans preference act and receive a service allowance as specified in sections 356.30, 356.32, or 422A.01 to 422A.25.

Sec. 7. Minnesota Statutes 1976, Chapter 423, is amended by adding a section to read:

[423.076] RETIREMENT; POLICE AND FIRE DEPARTMENTS. A compulsory retirement age of not less than 65 years may be established for persons on the payroll of a police or fire department which does not come within the provisions of section 423.075 or 423.26 without being a violation of section 2 of this act or section 4 of this act.

Sec. 8. This act is effective as of June 1, 1980, subject to the following exception:

(1) No mandatory retirement program or policy established by a collective bargaining agreement between a labor organization and a private employer executed prior to the enactment date of this act which mandates retirement prior to attaining 70 years of age shall be invalidated.

(2) Nothing contained in this act shall be construed as requiring the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to June 1, 1980, pursuant to a mandatory retirement law or policy which mandates retirement prior to attaining 70 years of age, or any other employee who terminates service prior to the termination of a collectively bargained contract containing a mandatory retirement provision.

(3) No collective bargaining agreement executed following the enactment date of this act shall provide for mandatory retirement prior to attaining 70 years of age for an employee who terminates service June 1, 1980, or subsequent thereto.

Approved March 28, 1978.

CHAPTER 650-H.F.No.2043

An act relating to the legislature; prohibiting an employer or employee organization from discharging or discriminating against legislators or former legislators in retribution for political statements or beliefs; amending Minnesota Statutes 1976, Section 3.083.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 3.083, is amended to read:

3.083 RETENTION OF SENIORITY, FRINGE BENEFITS AND TENURE.
Subdivision 1. Any member of the legislature who is continued in or restored to a position

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