

Sec. 3. Section 1 is effective the day following final enactment, and applies to documents filed with the secretary of state on or after that date. Section 2 is effective August 1, 1978, and applies to all documents filed with the secretary of state on or after that date.

Approved March 23, 1978.

CHAPTER 538-S.F.No.1985

[Coded in Part]

An act relating to retirement; transit operating division of the metropolitan transit commission; transfer of pension coverage; termination of the metropolitan transit commission—transit operating division employees retirement fund; amending Minnesota Statutes 1976, Sections 352.01, Subdivisions 2A and 11; 352.22, by adding a subdivision; 356.20, Subdivision 2; and Minnesota Statutes, 1977 Supplement, Sections 352.03, Subdivisions 1 and 2; and 473.415.

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

Section 1. Minnesota Statutes 1976, Section 352.01, Subdivision 2A, is amended to read:

Subd. 2A. **INCLUDED EMPLOYEES.** The following persons are included in the meaning of state employee:

- (1) Employees of the Minnesota Historical Society.
- (2) Employees of the State Horticultural Society.
- (3) Employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed prior to July 1, 1963.
- (4) Employees of the Minnesota Crop Improvement Association.
- (5) Employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system.
- (6) Employees of the state universities employed under the university activities program.
- (7) Currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in item (8) of subdivision 2B.
- (8) Employees of the armory building commission.

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(9) Permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation including permanent employees of the legislative research committee.

(10) Trainees who are employed on a full time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period.

(11) Employees of the Minnesota Safety Council.

(12) Employees of the transit operating division of the metropolitan transit commission and any employees on authorized leave of absence from the transit operating division who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division.

(13) Employees of the metropolitan council, metropolitan parks and open space commission, metropolitan transit commission, metropolitan waste control commission, metropolitan sports facilities commission or the metropolitan mosquito control commission unless excluded or covered by another public pension fund or plan pursuant to sections 473.141, subdivision 12, or 473.411, subdivision 3.

Sec. 2. Minnesota Statutes 1976, Section 352.01, Subdivision 11, is amended to read:

Subd. 11. **ALLOWABLE SERVICE.** "Allowable service" means:

(1) Any service rendered by an employee for which on or before July 1, 1957, he was entitled to allowable service credit on the records of the system 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 352, as amended by Laws 1955, Chapter 239, or

(2) Any service rendered by an employee for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1961, Section 352.24, or

(3) Any service rendered by an employee after July 1, 1957, for any calendar month in which he is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041, or

(4) Any service rendered by an employee after July 1, 1957 for any calendar month for which payments in lieu of salary deductions are made, deposited and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, Section 352.021, Subdivision 4.

(For purposes of paragraphs (3) and (4) of this subdivision, any salary paid for a

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fractional part of any calendar month is deemed the compensation for the entire calendar month. The board of directors of the Minnesota state retirement system shall establish rules governing the accrual of allowable service credit for less than full time employment.), or

(5) The period of absence from their duties by employees who by reason of injuries incurred in the performance thereof are temporarily disabled and for which disability the state is liable under the worker's compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund, or

(6) The unused portion of an employee's annual leave allowance for which he is paid salary, or

(7) Any employee who made payment in installments in order to obtain additional service credit but failed to make the final payment on or before July 1, 1962 shall be entitled to have credit for all service for which the payments he made will entitle him under the provisions of Minnesota Statutes 1961, Section 352.24. In determining "the service for which the payments he made will entitle him" service credit shall extend retroactively from the latest service for which he made payment, or

(8) Former state employees who hold numbered certificates of deferred annuity who again become state employees shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates, or

(9) Any service covered by refundment repaid as provided in section 352.23 but does not include service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system, or

(10) Any service prior to the effective date of the act by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division which was credited by the metropolitan transit commission—transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous or allowable service as defined in the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977.

Sec. 3. Minnesota Statutes, 1977 Supplement, Section 352.03, Subdivision 1, is amended to read:

352.03 BOARD OF DIRECTORS, COMPOSITION, EXECUTIVE DIRECTOR; DUTIES, POWERS. Subdivision 1. **MEMBERSHIP OF BOARD; ELECTION; TERM.** The policy making function of the system is hereby vested in a board of eight ~~nine~~ members, who shall be known as the board of directors, hereinafter called the board. This board shall consist of three members appointed by the governor, one of whom shall be a constitutional officer or appointed state official and two public members knowledgeable

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in pension matters, four state employees who shall be elected by state employees covered by the system excluding employees of the transit operating division of the metropolitan transit commission and employees on authorized leave of absence from the transit operating division who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, one employee of the transit operating division of the metropolitan transit commission who shall be designated by the executive committee of the labor organization which is the exclusive bargaining agent representing employees of the transit division, and one retired employee who shall be elected by retired employees at a time and in a manner to be fixed by the board. Two board members, whose terms of office shall begin on the first Monday in March next succeeding their election, shall be elected biennially. The term of the two board members whose terms expire in 1968 shall terminate on the first Monday in March, 1968, and the terms of the two board members whose terms expire in 1970 shall terminate on the first Monday in March, 1970. The elected retired board member shall serve a term commencing January 1, 1978 and terminating on the first Monday in March, 1980. The transit operating division board member shall serve a term commencing January 1, 1979, and terminating on the first Monday in March, 1980. Thereafter the members of the board so elected and the transit operating division member so appointed shall hold office for a term of four years, except the retired member whose term shall be two years, and until their successors are elected or appointed, and have qualified. A state employee on leave of absence shall not be eligible for election or re-election to membership on the board of directors; and the term of any board member who is on leave for more than six months shall automatically terminate upon the expiration of such period.

Sec. 4. Minnesota Statutes, 1977 Supplement, Section 352.03, Subdivision 2, is amended to read:

Subd. 2. **VACANCY.** Any vacancy of a state employee or retired employee in the board caused by death, resignation, or removal of any member so elected shall be filled by the board for the unexpired portion of the term in which the vacancy occurs. Any vacancy of the employee of the transit operating division member of the board caused by death, resignation, or removal shall be filled by the governing board of the labor organization which is the exclusive bargaining agent representing employees of the transit operating division.

Sec. 5. Minnesota Statutes 1976, Section 352.22, is amended by adding a subdivision to read:

Subd. 2a. **AMOUNT OF CERTAIN REFUND.** For any employee who is entitled to receive a refund pursuant to subdivision 1 and who, prior to the effective date of this act, was a member of the metropolitan transit commission—transit operating division employees retirement fund, the refund for contributions made prior to the effective date of this act shall be equal to the following amounts:

(a) For any employee contributions made prior to January 1, 1950, the amount equal to one half of the employee contributions without interest;

(b) For any employee contributions made subsequent to December 31, 1949, but

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prior to January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per annum; and

(c) For any employee contributions made subsequent to December 31, 1974, but prior to the effective date of this act, the amount of the employee contributions plus simple interest at the rate of three and one half percent per annum. The refund of contributions made on or after the effective date of this act shall be determined pursuant to subdivision 2. Interest shall be computed to the first day of the month in which the refund is processed and shall be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission—transit operating division employees retirement fund received prior to July 1, 1978 or for service rendered prior to July 1, 1978 may be repaid.

Sec. 6. Minnesota Statutes 1976, Section 356.20, Subdivision 2, is amended to read:

Subd. 2. (1) State employees retirement fund.

(2) Public employees retirement fund.

(3) Teachers retirement fund.

(4) Highway patrolmen's retirement fund.

~~(5) Twin City lines employees retirement plan.~~

~~(6) (5) Minneapolis teachers retirement fund association.~~

~~(7) (6) St. Paul teachers retirement fund association.~~

~~(8) (7) Duluth teachers retirement fund association.~~

~~(9) (8) Municipal employees retirement board of Minneapolis.~~

~~(10) (9) University of Minnesota police retirement plan.~~

~~(11) (10) University of Minnesota faculty retirement plan.~~

Sec. 7. Minnesota Statutes, 1977 Supplement, Section 473.415, is amended to read:

473.415 **LABOR PROVISIONS.** Subdivision 1. If the commission acquires an existing transit system, the commission shall assume and observe all existing labor contracts and pension obligations. All employees of such system except executive and administrative officers who are necessary for the operation thereof by the commission shall be transferred to and appointed as employees of the commission for the purposes of the transit system, subject to all the rights and benefits of sections 473.401 to 473.451. Such employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transit system. The commission shall assume the obligations of any transit system

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acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The commission and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the commission and the participating employees through their representatives. No employee of any acquired system who is transferred to a position with the commission shall by reason of such transfer be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits than he enjoyed as an employee of such acquired system.

Subd. 2. For any employees of the commission who were transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of this act, the provisions of this act shall replace the provisions of subdivision 1 relating to the pension obligations which the commission is required to assume, and the pension or retirement plan and pension trust funds which the commission is required to establish, maintain and administer. Upon compliance with the applicable provisions of this act, the commission shall not be deemed to have placed any employee of the commission who was transferred to and appointed as an employee of the commission upon completion of acquisitions of transit systems which occurred prior to the effective date of this act in any worse position with respect to pension and related benefits than the employee of the commission enjoyed as an employee of the acquired existing transit system.

Subd. 3. For any employees of the commission who are transferred to and appointed as employees of the commission upon completion of acquisitions of transit systems which occur subsequent to the effective date of this act, those employees shall be governed by the provisions of this act unless the acquisition of the transit system which employed them immediately preceding the acquisition included the acquisition of a pension trust fund under the joint control of the acquired system and the participating employees through their representatives.

Sec. 8. [352.75] TRANSFER OF PENSION COVERAGE; SAVINGS CLAUSE; INCREASE FOR EXISTING ANNUITIES AND BENEFITS. Subdivision 1. EXISTING EMPLOYEES. Notwithstanding any provisions of law to the contrary, as of the effective date of this act, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on the effective date of this act by a labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall cease to be members of the metropolitan transit commission—transit operating employees retirement fund and shall cease to have any accrual of service credit, rights or benefits under that retirement fund. From and after the effective date of this act, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on the effective date of this act by the labor organization which is the exclusive bargaining agent representing employees of the

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transit operating division shall be members of the Minnesota state retirement system, shall be considered state employees for purposes of chapter 352, unless specifically excluded pursuant to section 352.01, subdivision 2B, and shall have past service with the transit operating division of the metropolitan transit commission credited by the Minnesota state retirement system in accordance with section 2, clause (10), of this act. Any employees on authorized leaves of absence from the transit operating division of the metropolitan transit commission who become employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division after the effective date of this act shall be entitled to be members of the Minnesota state retirement system pursuant to section 352.029.

Subd. 2. NEW EMPLOYEES. All persons first employed by the metropolitan transit commission as employees of the transit operating division on or after the effective date of this act shall be members of the Minnesota state retirement system and shall be considered state employees for purposes of chapter 352 unless specifically excluded pursuant to section 352.01, subdivision 2B.

Subd. 3. EXISTING RETIRED MEMBERS AND BENEFIT RECIPIENTS. As of the effective date of this act, the liability for all retirement annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits paid or payable by the metropolitan transit commission—transit operating division employees retirement fund shall be transferred to the Minnesota state retirement system, and shall no longer be the liability of the metropolitan transit commission—transit operating division employees retirement fund. The required reserves for retirement annuities, disability benefits and optional joint and survivor annuities in effect on the day prior to the effective date of this act and the required reserves for the increase in annuities and benefits provided pursuant to section 10 of this act shall be determined using a five percent interest assumption and the applicable Minnesota state retirement system mortality table and shall be transferred by the Minnesota state retirement system to the Minnesota adjustable fixed benefit fund on the effective date of this act but shall be considered transferred as of June 30, 1978. The annuity or benefit amount in effect on the effective date of this act, including the increase granted pursuant to section 10 of this act, shall be considered the "originally determined benefit" for purposes of any adjustments made pursuant to section 11.25. If an adjustment from the Minnesota adjustable fixed benefit fund pursuant to section 11.25 is payable as of January 1, 1979, any annuitant or benefit recipient receiving an annuity or benefit from the Minnesota adjustable fixed benefit fund pursuant to this section shall be entitled to receive the adjustment if the annuitant or recipient began receiving the annuity or benefit from the metropolitan transit commission—transit operating division employees retirement fund on or before June 30, 1977, but that adjustment shall not include in the base for calculation the amount of any increase granted pursuant to section 10 of this act. If an adjustment from the Minnesota adjustable fixed benefit fund pursuant to section 11.25 is payable as of January 1, 1979, the required reserves for the increase determined using a five percent interest assumption and the applicable Minnesota state retirement system mortality table shall be transferred by the Minnesota state retirement system to the Minnesota adjustable fixed benefit fund on January 1, 1979. For persons receiving benefits as survivors of deceased former retirement annuitants, the benefits shall be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.

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Subd. 4. EXISTING DEFERRED RETIREES. Any former member of the metropolitan transit commission—transit operating division employees retirement fund who is not an active employee of the transit operating division of the metropolitan transit commission on the effective date of this act, who has at least ten years of active continuous service with the transit operating division of the metropolitan transit commission as defined by the metropolitan transit commission—transit operating division employees retirement plan document in effect on December 31, 1977, who has not received a refund of contributions and who has not retired or begun receiving an annuity or benefit from the metropolitan transit commission—transit operating division employees retirement fund shall be entitled to a retirement annuity from the Minnesota state retirement system upon attaining the age of at least 55 years and submitting a valid application for a retirement annuity to the executive director of the Minnesota state retirement system. The person shall be entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977 subject to an early retirement reduction or adjustment in amount on account of retirement prior to the normal retirement age specified in that metropolitan transit commission—transit operating division employees retirement fund plan document. The deferred retirement annuity of any person to whom this subdivision applies shall be augmented. The required reserves applicable to the deferred retirement annuity, determined as of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented by interest at the rate of five percent per annum compounded annually from January 1, 1978 to the first day of the month in which the annuity begins to accrue. Upon the commencement of the retirement annuity, the required reserves for the annuity shall be transferred to the Minnesota adjustable fixed benefit fund in accordance with subdivision 2 and section 352.119. Upon application for a retirement annuity under this subdivision, the person shall be entitled to elect a joint and survivor optional annuity pursuant to section 352.116, subdivision 3.

Sec. 9. [352.75] [Subd. 5.] SAVINGS CLAUSE FOR CERTAIN EXISTING EMPLOYEES. Any person who is a member of the metropolitan transit commission—transit operating division employees retirement fund on the effective date of this act shall be entitled to retain past and prospective rights under the retirement benefit formula, normal retirement age and early reduced retirement age provisions of the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on the effective date of this act in lieu of the provisions contained in sections 352.115; 352.116; 352.22, subdivisions 3 to 11; and 356.30.

Sec. 10. [352.75] [Subd. 6.] INCREASE IN EXISTING ANNUITIES AND BENEFITS. All persons receiving retirement allowances or annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits from the metropolitan transit commission—transit operating division employees retirement fund on December 31, 1977 and on the effective date of the act, shall be entitled to have that retirement allowance or annuity, disability benefit, survivorship annuity or survivor of deceased active employee benefit increased by an amount equal to \$20 per month. Notwithstanding section 356.18, increases in payments pursuant to this section shall be made automatically unless the intended recipient files written notice with the executive

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director of the Minnesota state retirement system requesting that the increase shall not be made. If any actuarial reduction or adjustment was applied to the retirement allowance or annuity, disability benefit, survivorship annuity or survivor of deceased active employee benefit, the increase specified in this section shall be similarly reduced or adjusted. Upon the death of any person receiving an annuity or benefit where the person made a joint and survivor optional annuity election, the survivor shall be entitled to the continued receipt of the increase provided for under this section; provided, however, that the increase shall be reduced or adjusted in accordance with the optional annuity election.

Sec. 11. TERMINATION OF FUND; TRANSFER OF ASSETS AND RECORDS OF FUND. Subdivision 1. TRANSFER OF ASSETS. On the effective date of this act, the retirement allowance committee of the metropolitan transit commission—transit operating division employees retirement fund shall transfer the entire assets of the fund to the state employees retirement fund. The assets shall include whatever interest the fund has in any debt or equity securities, any bank deposits, all accounts receivable, irrespective of source, any real or personal property holdings, any accrued interest or dividends on stock declared but not yet received, and any equipment. Any accounts payable on the effective date of this act shall also be transferred to the Minnesota state retirement system. The Minnesota state retirement system shall be the successor in interest to all claims for and against the metropolitan transit commission—transit operating division employees retirement fund or the metropolitan transit commission with respect to the fund, except any claim against the metropolitan transit commission—transit operating division employees retirement fund or any person connected with the fund in a fiduciary capacity, based on any act or acts by that person which were not done in good faith and which constituted a breach of his obligation as a fiduciary. As a successor in interest, the Minnesota state retirement system may assert any applicable defense in any judicial proceeding which the retirement allowance committee of the metropolitan transit commission—transit operating division employees retirement fund or the metropolitan transit commission would otherwise have been entitled to assert. If the assets transferred to the Minnesota state retirement system include securities which are not proper investments pursuant to section 11.16, those securities may be retained by the board of directors. Notwithstanding any contrary provision of section 11.25, subdivision 10, the Minnesota state retirement system shall not be required to sell any of the transferred securities and transfer cash equal to the required reserves to be transferred to the Minnesota adjustable fixed benefit fund pursuant to section 8, subdivision 3, of this act. The transfer to the Minnesota adjustable fixed benefit fund shall be made from those transferred securities which are proper investments pursuant to section 11.16. If the transfer results in an adverse change in portfolio balance of the Minnesota adjustable fixed benefit fund, exceeding the limitations set forth in section 11.25, subdivision 2, the deviation may be permitted by the state board of investment for a period not to exceed three months from the date that the portfolio balance limitation was exceeded.

Subd. 2. VALUATION OF ASSETS. The assets of the metropolitan transit commission—transit operating division employees retirement fund shall be valued on June 30, 1978, in a manner agreeable to the retirement allowance committee of the metropolitan transit commission—transit operating division employees retirement fund and the board of directors of the Minnesota state retirement system. In determining the value of the assets of the metropolitan transit commission—transit operating division

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employees retirement fund, the board of trustees of the Minnesota state retirement system shall utilize the state board of investment in an advisory capacity. If the two parties cannot agree on the value of the assets of the metropolitan transit commission—transit operating division employees retirement fund, then the board of trustees of the Minnesota state retirement system shall specify the value of the assets. If the retirement allowance committee contests the value of the assets as specified by the board of directors of the Minnesota state retirement system, then the dispute shall be submitted to the district court of the second judicial district.

Subd. 3. TRANSFER OF RECORDS. On the effective date of this act, the retirement allowance committee of the metropolitan transit commission—transit operating division employees retirement fund shall transfer to the Minnesota state retirement system all records and documents relating to the metropolitan transit commission—transit operating division employees retirement fund and any of its members, including certified copies of the most recent and all previous collective bargaining agreements relating to retirement and the retirement fund, which are in the possession of the retirement allowance committee, the actuary of the retirement fund, the metropolitan transit commission or labor organization which is the exclusive bargaining agent for employees of the transit operating division of the metropolitan transit commission. In addition, the retirement allowance committee shall certify the following to the board of directors of the Minnesota state retirement system:

(a) the date of retirement or commencement of retirement annuities or benefits of and the amounts entitled to be received by all persons receiving retirement allowances or annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits from the metropolitan transit commission—transit operating division employees retirement fund as of the effective date of this act; and

(b) the amount of member or employee contributions made by, the dates of service commencement and termination of, the length of service credited to, the dates of birth of, and the salaries of all active and inactive members, retirees and benefit recipients, and deceased members of the metropolitan transit commission—transit operating division employees retirement fund as of the effective date of this act.

Subd. 4. TERMINATION OF THE FUND. Upon the transfer of the assets, liabilities and records of the metropolitan transit commission—transit operating division employees retirement fund to the Minnesota state retirement system, the metropolitan transit commission—transit operating division employees retirement fund shall cease to exist as a legal entity. As its final official act, the retirement allowance committee shall notify in writing the secretary of the federal department of labor of the termination of the fund and the transfer of pension coverage and obligations to the fund to the Minnesota state retirement system. A copy of this act shall also be included with the written notification.

Sec. 12. [473.417] ADDITIONAL EMPLOYER OBLIGATION TO AMORTIZE UNFUNDED ACCRUED LIABILITIES. In order to amortize the additional unfunded accrued liability incurred by the Minnesota state retirement system as a result of the consolidation of the metropolitan transit commission—transit operating division

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employees retirement fund, and to place the metropolitan transit commission on an equivalent basis with the other employing units and agencies having employees covered by the Minnesota state retirement system, the metropolitan transit commission shall make an annual contribution to the Minnesota state retirement system in addition to the employer contribution specified in section 352.04, subdivision 3. The additional contribution shall be an amount equal to three and eight-tenths percent of the salaries of employees of the transit operating division on each payroll abstract, commencing July 1, 1978, and payable for a period of 20 years.

Sec. 13. [473.418] DISABILITY AND SURVIVORSHIP COVERAGE. From and after the effective date of this act, the metropolitan transit commission shall provide for all active employees of the transit operating division of the metropolitan transit commission disability and survivorship coverage which, when added to the disability benefit or the survivorship benefit payable from the Minnesota state retirement system pursuant to sections 352.113 or 352.12, subdivision 2, will at least equal the disability benefit or the survivorship benefit which that employee at the time of disability or the employee's surviving spouse at the time of the death of the employee while on active duty would have been entitled to receive under the disability benefit or survivor of active employee deceased while on active duty benefit provisions of the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977. The metropolitan transit commission may elect to provide the additional disability and survivorship coverage either through contract with an insurance carrier or through self insurance. If the commission elects to provide the coverage through an insurance contract, the chairman of the metropolitan transit commission is authorized to request bids from, or to negotiate with, insurance carriers and to enter into contracts with carriers which in the judgment of the commission are best qualified to underwrite and service this insurance benefit coverage. The commission shall consider factors such as the cost of the contracts as well as the service capabilities, character, financial position and reputation with respect to carriers under consideration, as well as any other factors which the commission deems appropriate. The disability and survivorship insurance contract with the particular insurance carrier shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in absence of notice of termination by either party. The disability and survivorship insurance contract shall contain a detailed statement of benefits offered, maximums, limitations and exclusions. A summary description of the essential terms of the contract shall be provided by the commission to the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission and to each active employee of the transit operating division. The determination of whether the disability or survivorship insurance coverage meets the minimum requirements of this section shall be made by the commission upon consultation with the executive director of the Minnesota state retirement system. If the disability or survivorship coverage provided by the metropolitan transit commission fails at any time after the effective date of this act to meet the requirements of this section as to the level of disability or survivorship coverage to be provided, the deficiency in the actual benefits provided shall continue to be an obligation of the commission. Notwithstanding any provisions of chapter 179 to the contrary, the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission may meet and bargain with the commission on an

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increase in the level of disability or survivor of active employee deceased while on active duty coverage to be provided by the commission at the same time that wages and other terms and conditions of employment are considered.

Sec. 14. [473.419] **MANDATORY RETIREMENT AGE.** An employee of the transit operating division of the metropolitan transit commission and an employee on leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall terminate employment on the first day of the month next following the month in which the employee reaches the age of 65; provided, however, that an employee of the transit operating division may be employed beyond the age of 65 at the option of the metropolitan transit commission, but shall not be employed beyond the first day of the month next following the month in which the employee reaches the age of 70.

Sec. 15. **NONAPPLICABILITY OF CERTAIN PROVISIONS.** Nothing required by any provision of this act shall constitute abandonment of the plan within the meaning of that or a similar term contained in any collective bargaining agreement entered into between the metropolitan transit commission and the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission.

Sec. 16. [473.42] **EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYEES.** Notwithstanding any contrary provisions of section 352.029, the metropolitan transit commission shall make the employer contributions required pursuant to section 352.04, subdivision 3, for any employee on authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division and who is covered by the Minnesota state retirement system in addition to all other employer contributions the commission is required to make.

Sec. 17. [352.76] **GENERAL ADMINISTRATION.** The provisions of chapter 352 shall govern in all instances where not inconsistent with the provisions of this act.

Sec. 18. **REFUND OF CERTAIN EMPLOYEE CONTRIBUTIONS.** All active employees of the transit operating division of the metropolitan transit commission who were members of the metropolitan transit commission—transit operating division employees retirement fund on June 30, 1978, and who made employee contributions to that retirement fund shall be entitled to a refund of any employee contributions to that retirement fund in excess of four percent of covered salary made between January 1, 1978 and June 30, 1978. The refund shall be made on or after July 1, 1978 upon the employee filing a valid application with the executive director of the Minnesota state retirement system.

Sec. 19. **FUTURE ACTUARIAL VALUATIONS.** Notwithstanding Minnesota Statutes 1976, Section 356.215, the retirement allowance committee of the metropolitan transit commission—transit operating division employees retirement fund shall not be

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required to have an actuarial valuation made as of January 1, 1978. The executive director of the Minnesota state retirement system shall include the transferred membership, liabilities and assets of the metropolitan transit commission—transit operating division employees retirement fund, including any increases provided for by this act, in the valuation of the Minnesota state retirement system as of June 30, 1978.

Sec. 20. **EFFECTIVE DATE.** This act shall be effective July 1, 1978.

Sec. 21. **RETROACTIVE EFFECT.** This act shall have retroactive application for any person who, on or after January 1, 1978, but prior to July 1, 1978,

(a) terminates active service from the transit operating division of the metropolitan transit commission with less than ten years of active service;

(b) terminates active service from the transit operating division of the metropolitan transit commission with at least ten years of active service;

(c) becomes so disabled that the person is unable to continue to perform his duties as an active employee of the transit operating division of the metropolitan transit commission within the meaning of article ten of the most recent collective bargaining agreement in force between the metropolitan transit commission and the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission and has at least five years of active service; or

(d) becomes the surviving spouse of a former active employee of the transit operating division of the metropolitan transit commission who dies as a result of an accident which occurs during his employment with the transit operating division.

Any person obtaining the status described in clause (a) shall be entitled to receive a refund of employee contributions under section 352.22, subdivision 2a. Any person obtaining the status described in clause (b) who is at least age 55 shall be entitled to receive an annuity under section 352.115, subdivisions 2 and 3, notwithstanding that the person had not attained the minimum age specified in section 352.115, subdivision 1, at the time of the commencement of the annuity; provided, however, that the early retirement reduction factor specified in section 352.116, subdivision 1, shall apply unless the age of the person at the commencement of the annuity was at least 65 if the person had credit for ten or more years of service, or was at least age 62 if the person had credit for 30 or more years of service. Any person obtaining the status described in clause (c) shall be entitled to receive a benefit in an amount equal to the accrued retirement annuity computed pursuant to section 352.115, subdivisions 2 and 3, without the reduction for early commencement of the benefit set forth in section 352.116, with a minimum disability benefit of \$130 per month and a maximum disability benefit of the amount of the disability benefit which, when added to any earnings from partial or total re-employment, shall not exceed 85 percent of the current top rate of salary paid to the employment position classification held by the person at the time of the occurrence of the disability. Upon the commencement of a disability under this section, section 352.113, subdivisions 1 through 11 shall not be considered applicable to that person. Any person obtaining the

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status described in clause (d) shall be entitled to receive a benefit in an amount equal to the benefit provided by section 352.12, subdivision 2, notwithstanding the fact that the former active employee may not have attained one of the ages or have been credited with one of the lengths of service specified in that subdivision.

Any person entitled to receive an increase pursuant to section 10 of this act shall be entitled to receive the increase retroactively to January 1, 1978. The first payment of retirement allowances or annuities, disability benefits, survivorship annuities or survivorship benefits shall include the retroactive amounts.

Approved March 23, 1978.

CHAPTER 539-S.F.No.2078

An act relating to taxation; sales tax; changing definition of common carriers as retailers; amending Minnesota Statutes, 1977 Supplement, Section 297A.211, Subdivision 1.

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

Section 1. Minnesota Statutes, 1977 Supplement, Section 297A.211, Subdivision 1, is amended to read:

297A.211 COMMON CARRIERS AS RETAILERS. Subdivision 1. Every person, as defined in this chapter, who is engaged in interstate for-hire transportation of tangible personal property or passengers by motor vehicle may at their option, under rules and regulations prescribed by the commissioner, register as retailers and pay the taxes imposed by this chapter in accordance with this section. Persons referred to herein are: (1) persons possessing a certificate or permit authorizing for-hire transportation of property or passengers from the interstate commerce commission or the Minnesota public service commission; or (2) persons transporting commodities defined as "exempt" in for-hire transportation in interstate commerce; or (3) persons who, pursuant to contracts with persons described in clauses (1) or (2) above, transport tangible personal property in interstate commerce. Persons qualifying under clauses (2) and (3) must maintain on a current basis the same type of mileage records that are required by persons specified in clause (1) by the interstate commerce commission.

Sec. 2. EFFECTIVE DATE. This act is effective on the date following final enactment.

Approved March 23, 1978.

CHAPTER 540-S.F.No.2183

An act relating to the administration of justice; providing for compensation of assistant

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