

to 50 gallons per minute, which shall be subject to inspection four times per year. The department may by rule provide for administration of this section.

Subd. 2. Water appropriation permit requirements and penalties provided in sections 105.41 to 105.416 and any related rules promulgated and enforced by the department of natural resources shall apply to groundwater thermal exchange permit recipients if actual rate of flow exceeds 20 gallons per minute. Validity of the permit is contingent upon compliance with all provisions of subdivision 1. Noncompliance shall subject the permitted party to any sanctions applicable to the noncomplying activity available to the Minnesota department of health and Minnesota pollution control agency.

Sec. 4. EFFECTIVE DATE.

This act is effective the day following its final enactment.

Approved May 11, 1981

CHAPTER 180 — S.F.No. 207

An act relating to retirement; making various changes in the laws governing the operation of the public employees retirement association; amending Minnesota Statutes 1980, Sections 353.01, Subdivision 19; 353.03, Subdivisions 1, 2, and 3a; 353.15; 353.27, Subdivision 4; 353.28, Subdivision 5; 353.29, Subdivision 8; 353.31, Subdivision 1; 353.32, Subdivision 9; 353.33, Subdivisions 4, 5, and 6; 353.64, Subdivisions 1 and 6; 353.656, Subdivision 2; and 353.657, Subdivision 3; repealing Minnesota Statutes 1980, Sections 353.272; 353.37, Subdivision 1a; and 353.46, Subdivision 1.

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

Section 1. Minnesota Statutes 1980, Section 353.01, Subdivision 19, is amended to read:

Subd. 19. TOTAL AND PERMANENT DISABILITY. "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration which is. Long-continued and indefinite duration means that the disability has been or is expected to be for a period of at least one year.

Sec. 2. Minnesota Statutes 1980, Section 353.03, Subdivision 1, is amended to read:

Subdivision 1. MANAGEMENT; COMPOSITION; ELECTION. The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 15 members, who shall be known as the board of

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trustees. This board shall consist of four trustees, one of whom shall be designated by each of the following associations or organizations, Minnesota school boards association, League of Minnesota Cities, Association of Minnesota Counties and the executive committee of the statewide general labor organization which includes among its membership the employee organizations, as defined in section 179.63, subdivision 5, which represent the largest number of employees who are association members; nine area trustees, who shall be elected from the membership employed in one of the areas described below by the members employed in such area except members of the police and fire fund; one trustee who shall be a retired annuitant elected at large by other retired annuitants and disabilitants; and one trustee who is a member of the police and fire fund elected at large by the membership of the police and fire fund. Trustees elected by the membership of the association or by the retired annuitants and disabilitants of the association shall be elected for a term of four years. Trustees designated by an association or organization or elected or selected by the use of a procedure other than direct election by the membership of the association or by the annuitants of the association shall hold office for a term of two years or until the designation, election or selection procedure is changed, if that occurs earlier. For seven days beginning ~~December~~ November 1 of each year, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. An area candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund from the area of the candidate, a retired annuitant candidate, a nominating petition signed by any combination of 25 or more ~~such~~ retired annuitants or disabilitants, and a police and fire fund candidate, a nominating petition signed by 25 or more members of such fund. ~~No nominee may withdraw his name~~ may be withdrawn from nomination by the nominee after ~~December~~ November 15. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ~~and~~, retired annuitants and disabilitants, ballots listing the candidates. No member may vote for more than one candidate ~~but a blank line shall be provided for a write in vote~~. A ballot indicating a vote for more than one person shall be void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. Except as provided in this section, all terms expire on January 31 of the fourth year, and the position shall remain vacant until the newly elected member is qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret. For the purpose of electing the nine area trustees, the state shall be divided into three areas as follows: Area one shall include Anoka, Hennepin, Ramsey and Washington counties. Area two shall include Big Stone, Swift, Kandiyohi, Meeker and Wright counties and all counties south thereof, except counties in area one. Area three shall include all the remaining counties of the state. If any governmental unit is located in more than one area, place of employment shall be deemed to be in the area in which the main office of the governmental unit is located. Each year for three years

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one area trustee shall be elected to a four-year term from each area by the members employed in the respective areas. In the fourth year one trustee shall be elected at large by the police and fire fund membership and one trustee elected at large by the retired annuitants and disabilitants.

~~Notwithstanding the foregoing, however, in order to provide for a transition to regional elections, in the year 1978 only, a retired trustee shall be elected by the annuitants, and three trustees shall be elected from each of the three areas by the members of the area who may vote for only one candidate. The annuitant candidate receiving the most votes shall serve a three-year term, the candidate in each area receiving the largest number of votes shall serve a four-year term, the candidate in each area receiving the second largest number of votes shall serve a two-year term and the candidate in each area receiving the third largest number of votes shall serve a one-year term.~~ The elections shall be supervised by the secretary of state. 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 subdivisions which aid in financing it and the public employees who are its beneficiaries.

Sec. 3. Minnesota Statutes 1980, Section 353.03, Subdivision 2, is amended to read:

Subd. 2. **NO COMPENSATION EXPENSES.** The members of the board of trustees and members of any authorized committee of said retirement association shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, ~~and.~~ Members of the board of trustees shall suffer no loss of salary or wages through compensation from their employer by reason of service on or for the board or on any authorized committee of said retirement association thereof.

Sec. 4. Minnesota Statutes 1980, Section 353.03, Subdivision 3a, is amended to read:

Subd. 3a. **DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. He shall act as adviser to the board on all matters pertaining to the association. He shall also act as the secretary of the board. It is the duty of the executive director and he has the power to:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this chapter;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

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(4) Designate an assistant director with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter, and with the approval of the board fix their compensation;

(5) Organize the work of the association as he deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe;

(6) With the approval of the board, contract for actuarial services, professional management services, and consulting services as may be necessary and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. ~~Professional management services may not be contracted for more often than once in every six years.~~ Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

(7) With the approval of the board provide inservice training for all employees of the association;

(8) Make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in this chapter;

(9) Determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;

(10) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the association;

(11) Prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by chapter 356;

(12) With the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 5. Minnesota Statutes 1980, Section 353.15, is amended to read:

353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS AND TAXATION.

No money, annuity, or benefit provided for in this chapter is assignable or subject to a ~~power of attorney~~, execution, levy, attachment, garnishment, or

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legal process, including actions for divorce, legal separation, and child support, or to any state estate tax. Provided, however, the association may pay an annuity, benefit or refund to a trust company, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former member, the association may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with his spouse. The association may prescribe the conditions under which such payment will be made. If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

Sec. 6. Minnesota Statutes 1980, Section 353.27, Subdivision 4, is amended to read:

Subd. 4. **EMPLOYERS REPORTING REQUIREMENTS; CONTRIBUTIONS; MEMBER STATUS.** The head of each department is hereby directed to cause employee contributions to be deducted at least once each month from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries, *and at the same time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be remitted within 15 days thereafter to the executive director received not later than 20 days thereafter in the office of the association.* The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the board of trustees, showing (a) the legal names and the association membership numbers, listed in alphabetical or association membership number sequence, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "death" or "retirement"; and (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "sick leave". Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the board, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees ~~for prompt submission to be submitted to the association within 30 days following the date of employment.~~ The employers shall furnish such additional reports ~~or on punch cards, magnetic media or other form of report~~ as may be requested by the association executive director.

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Sec. 7. Minnesota Statutes 1980, Section 353.28, Subdivision 5, is amended to read:

Subd. 5. Any amount due and payable pursuant to this section by a governmental subdivision on June 30, 1969, shall thereafter bear compound interest at the rate of six percent per year until paid. Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4 on or after July 1, 1969, shall bear compound interest at the rate of six percent per year from the date due until the date paid, with a minimum charge of \$5.

Sec. 8. Minnesota Statutes 1980, Section 353.29, Subdivision 8, is amended to read:

Subd. 8. **ANNUITIES; PAYMENT; EVIDENCE OF RECEIPT.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, during the first week of that month. Evidence of receipt of every warrant issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association ~~semi-annually~~ periodically at times specified by the board of trustees, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the executive director thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the next ensuing month, the annuity or benefit to which ~~he~~ the person otherwise may be entitled.

Sec. 9. Minnesota Statutes 1980, Section 353.31, Subdivision 1, is amended to read:

Subdivision 1. **BENEFITS FOR SURVIVING SPOUSE AND DEPENDENT CHILDREN; BEFORE RETIREMENT.** Upon the death of a "basic member" before retirement or upon the death of a "basic member" who was disabled and receiving disability benefits pursuant to section 353.33 at the time of ~~his~~ death who has had at least 18 months of credited allowable service, ~~his~~ the surviving spouse and dependent children of the member, as defined in section 353.01, subdivisions 15 and 20, shall receive the monthly benefit provided below:

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|--------------------------|---|
| (a) Surviving spouse | 30 percent of the member's monthly average salary in effect over the last full six months of allowable service <u>preceding the month in which death occurred</u> |
| (b) Each dependent child | 10 percent of the member's monthly average salary in |

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effect over the last full
six months of allowable
service preceding the month
in which death occurred

Payments for the benefit of any dependent child, as defined in section 353.01, subdivision 15, shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit for any one family shall not exceed \$450, and the minimum benefit per family shall not be less than 30 percent of the "basic member's" said average salary, subject to the aforementioned maximum. The surviving spouse benefit shall terminate upon ~~his or her~~ the remarriage of the spouse, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of a "basic member" whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision.

Under the terms of this subdivision there are no survivor benefits, as such, payable to the surviving spouse or dependent children of any deceased "coordinated member".

Sec. 10. Minnesota Statutes 1980, Section 353.32, Subdivision 9, is amended to read:

Subd. 9. **PAYMENT TO A MINOR.** If a member or former member dies having named as his beneficiary a person who is a minor at the time of the application for refund ~~and the amount of the refund does not exceed \$1,500, exclusive of interest, the board of trustees in the absence of guardianship proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child, the board may make payment~~ (a) directly to the minor, (b) to any person who has legally qualified and is acting as guardian of the minor's person or property in any jurisdiction, or (c) to either parent of the minor or to any adult person with whom the minor may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of such minor. Any annuity or disability benefit payable at the time of death of an annuitant or recipient of a disability benefit, which is payable to a beneficiary who is a minor, may be paid in the same manner. Such payment shall be a bar to recovery by any other person or persons.

Sec. 11. Minnesota Statutes 1980, Section 353.33, Subdivision 4, is amended to read:

Subd. 4. **PROCEDURE TO DETERMINE ELIGIBILITY.** ~~The board shall have the member examined by at least two licensed physicians selected by the board. These physicians shall make written reports to the board concerning the member's disability including medical opinions as to~~

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whether the member is totally and permanently disabled within the meaning of section 353.01, subdivision 19. The board shall also obtain written certification from the employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence presented by the member or others interested therein, the board finds the member totally and permanently disabled, it The applicant shall provide medical evidence to support the application for total and permanent disability. The medical advisor shall verify the medical evidence and; if necessary for disability determination, suggest referral of applicant to specialized medical consultants. The association shall also obtain from the employer, certification of the member's past public service, dates of paid sick leave and vacation beyond his last working day and whether or not sick leave or annual leave has been allowed. If upon consideration of the medical reports received and the recommendations of the medical advisor, it is determined that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant him the person a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar him the person from receiving a disability benefit.

Sec. 12. Minnesota Statutes 1980, Section 353.33, Subdivision 5. is amended to read:

Subd. 5. **BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.** The disability benefit Disability benefits paid shall be reimbursed and future benefits shall be reduced by any amounts received or receivable by a member in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant.

Sec. 13. Minnesota Statutes 1980, Section 353.33, Subdivision 6. is amended to read:

Subd. 6. **REGULAR PHYSICAL EXAMINATIONS CONTINUING ELIGIBILITY FOR BENEFITS.** 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 permanently and totally disabled 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. The payments shall discontinue 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

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such person is no longer permanently and totally disabled. The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments shall be made for no more than 60 days.

Sec. 14. Minnesota Statutes 1980, Section 353.64, Subdivision 1, is amended to read:

Subdivision 1. Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as ~~he~~ the person remains in either position, be deemed to continue his membership in ~~said~~ the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978 by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer, ~~as determined by the rules which shall be prescribed by the board of trustees on or before January 1, 1980,~~ shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, other than a volunteer firefighter as defined in section 353.01, subdivision 34, ~~as determined by rules which shall be prescribed by the board of trustees on or before January 1, 1980,~~ shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter and that the position will be compensated at an hourly wage payment rate which will yield a salary on an annual basis in an amount in excess of \$3,000. Any police officer or firefighter who by virtue of ~~his~~ that employment is required to contribute to any other pension, relief, or retirement fund established for the benefit of officers or employees of a governmental subdivision other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply shall not be a member of this fund.

Sec. 15. Minnesota Statutes 1980, Section 353.64, Subdivision 6, is amended to read:

Subd. 6. Any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act shall be excluded from member-

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ship in the police and fire fund from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contributions in addition to the required employee contribution.

Sec. 16. Minnesota Statutes 1980, Section 353.656, Subdivision 2, is amended to read:

Subd. 2. **BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.** If a member, as described in subdivision 1, is injured under circumstances which entitle ~~him~~ the member to receive benefits under the workers' compensation law, ~~he~~ the member shall receive the same benefits as provided in subdivision 1, ~~less with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts paid to him the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disablitant.~~

Sec. 17. Minnesota Statutes 1980, Section 353.657, Subdivision 3, is amended to read:

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average monthly salary earned as a police officer or fire fighter on which employee contributions were paid over the last full six months of allowable service preceding death. Payments for the benefit of any qualified 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 the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall not exceed an amount equal to 50 percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than 30 percent of the member's specified average monthly salary.

Sec. 18. **REPEALER.**

Minnesota Statutes 1980, Sections 353.272; 353.37, Subdivision 1a; and 353.46, Subdivision 1, are repealed.

Sec. 19. **EFFECTIVE DATE.**

This act is effective July 1, 1981.

Approved May 13, 1981

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