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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 125

January 16, 2007

Authored by Murphy, M., by request,
The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act
1.2 relating to retirement; adding definitions for disability for police and fire
1.3 fund and local government correctional retirement plan members; modifying
1.4 disability and survivor benefits; amending Minnesota Statutes 2006, sections
1.5 353.01, subdivision 37, by adding subdivisions; 353.651, subdivision 4;
1.6 353.656, subdivisions 1, 1a, 3, 4, 5a, 6a, 10, by adding a subdivision; 353.657,
1.7 subdivisions 1, 2, 2a, 3; 353E.06, subdivisions 1, 2; proposing coding for new
1.8 law in Minnesota Statutes, chapter 353E.

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

1.10 Section 1. Minnesota Statutes 2006, section 353.01, subdivision 37, is amended to read:

1.11 Subd. 37. **Normal retirement age.** (a) "Normal retirement age" means age 65
1.12 for a person who first became a public employee or a member of a pension fund listed
1.13 in section 356.30, subdivision 3, clause (7), before July 1, 1989. For a person who first
1.14 becomes a public employee after June 30, 1989, "normal retirement age" means the higher
1.15 of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as
1.16 amended, but not to exceed age 66.

1.17 (b) "Normal retirement age" means age 55 for a person who is a member of a
1.18 pension fund listed in section 356.30, subdivision 3, clauses (8) and (9).

1.19 Sec. 2. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
1.20 to read:

1.21 Subd. 41. **Occupational disability.** "Occupational disability," for purposes of
1.22 determining eligibility for disability benefits, means a disabling condition that is expected
1.23 to prevent a member, for a period of not less than 12 months, from performing the normal
1.24 duties of the position held by a person who is a member of the public employees police
1.25 and fire fund. Occupational disability benefits are awarded as:

2.1 (1) duty disability, physical or psychological, which means a disabling condition
 2.2 that is the direct result of an injury incurred during, or a disease arising out of, the
 2.3 performance of normal duties or the actual performance of less frequent duties, either of
 2.4 which are specific to protecting the property and personal safety of others and that present
 2.5 inherent dangers that are specific to the positions covered by the public employees police
 2.6 and fire plan; or

2.7 (2) regular disability, physical or psychological, which means a disabling condition
 2.8 resulting from a disease or an injury that arises from any activities while not at work or
 2.9 while at work from performing those normal or less frequent duties that do not present
 2.10 inherent dangers that are specific to the occupations covered by the public employees
 2.11 police and fire plan.

2.12 Sec. 3. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
 2.13 to read:

2.14 Subd. 42. **Normal duties.** "Normal duties" means specific tasks designated in the
 2.15 applicant's job description and which the applicant performs on a day-to-day basis, but
 2.16 do not include less frequent duties which may be requested to be done by the employer
 2.17 from time to time.

2.18 Sec. 4. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
 2.19 to read:

2.20 Subd. 43. **Less frequent duties.** "Less frequent duties" means tasks designated in
 2.21 the applicant's job description as either required from time to time or as assigned, but
 2.22 which are not carried out as part of the normal routine of the applicant's job.

2.23 Sec. 5. Minnesota Statutes 2006, section 353.651, subdivision 4, is amended to read:

2.24 Subd. 4. **Early retirement.** (a) Upon termination of public service, any police
 2.25 officer or firefighter and fire plan member who ~~has become~~ was an active member of the
 2.26 plan on June 30, 2007, and has continuous service thereafter, upon attaining at least 50
 2.27 years ~~old and who has~~ of age with at least three years of allowable service is entitled
 2.28 upon application to a retirement annuity equal to the normal annuity calculated under
 2.29 subdivision 3, reduced by one-tenth of one percent for each month that the member is
 2.30 under age 55 at the time of retirement.

2.31 (b) Any police and fire plan member who was newly enrolled or reinstated as a
 2.32 member of the plan after June 30, 2007, who is at least 50 years of age with at least three
 2.33 years of allowable service, upon termination of public service is entitled upon application

3.1 to a retirement annuity equal to the normal annuity calculated under subdivision 3,
 3.2 reduced by two-tenths of one percent for each month that the member is under age 55
 3.3 at the time of retirement.

3.4 Sec. 6. Minnesota Statutes 2006, section 353.656, subdivision 1, is amended to read:

3.5 Subdivision 1. ~~In-line of Duty~~ **disability; computation of benefits.** (a) A member
 3.6 of the police and fire plan who:

3.7 (1) has not met the requirements for a retirement annuity under section 353.651,
 3.8 subdivision 1, or

3.9 (2) has met the requirements for a retirement annuity under section 353.651,
 3.10 subdivision 1, but who does not have 20 years of credited service; and who ~~becomes~~
 3.11 ~~disabled and physically unfit to perform duties as a police officer, firefighter, or paramedic~~
 3.12 ~~as defined under section 353.64, subdivision 10, as a direct result of an injury, sickness,~~
 3.13 ~~or other disability incurred in or arising out of any act of duty, which has or is expected~~
 3.14 ~~to render the member physically or mentally unable to perform the duties as a police~~
 3.15 ~~officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, for~~
 3.16 ~~a period of at least one year, is determined to qualify for duty disability as defined in~~
 3.17 section 353.01, subdivision 41, clause (1), shall receive disability benefits during the
 3.18 period of such disability:

3.19 ~~(b) The benefits must be~~ in an amount equal to 60 percent of the "average salary" as
 3.20 defined in section 353.01, subdivision 17a, ~~plus an additional percent specified in section~~
 3.21 ~~356.315, subdivision 6, of that average salary for each year of service in excess of 20~~
 3.22 ~~years.~~ If the disability under this subdivision:

3.23 (i) is payable based upon this clause, the disability benefit must be paid for a period
 3.24 of 60 months from the effective date and at the end of that period is subject to the
 3.25 provisions of subdivision 5a; and

3.26 (ii) occurs before the member has at least five years of allowable service credit in the
 3.27 police and fire plan, the disability benefit must be computed on the "average salary" from
 3.28 which deductions were made for contribution to the police and fire fund.

3.29 Sec. 7. Minnesota Statutes 2006, section 353.656, subdivision 1a, is amended to read:

3.30 Subd. 1a. **Optional annuity election.** A disabled member of the police and fire
 3.31 fund may elect to receive the normal disability benefit or an optional annuity as provided
 3.32 in section 353.30, subdivision 3. The election of an optional annuity may be made prior to
 3.33 commencement of payment of the disability benefit ~~or as specified under subdivision 6a.~~

4.1 If an election is made upon application for a disability benefit, the optional annuity shall
4.2 begin to accrue on the same date as provided for the disability benefit-;

4.3 (i) if an election of an optional annuity is not made prior to payment of the disability
4.4 benefit, the disabled member can elect an optional annuity 90 days prior to attaining
4.5 normal retirement age;

4.6 (ii) if electing to convert to a retirement annuity prior to normal retirement age, upon
4.7 application to convert to an early retirement annuity payment; or

4.8 (iii) if the disability benefit is paid based on the member not having accrued 20
4.9 years of credited service at normal retirement age, 90 days prior to the expiration of the
4.10 60-month period for which a disability benefit is paid.

4.11 (1) If the person who is not the spouse of the member is named as beneficiary of
4.12 the joint and survivor optional annuity, the person is eligible to receive the annuity only
4.13 if the spouse, on the disability application form prescribed by the executive director,
4.14 permanently waives the surviving spouse benefits under section 353.657, ~~subdivisions~~
4.15 subdivision 2 and 2a. If the spouse of the member refuses to permanently waive the
4.16 surviving spouse coverage, the selection of a person other than the spouse of the member
4.17 as a joint annuitant is invalid.

4.18 (2) If the spouse of the member permanently waives survivor coverage, the
4.19 dependent child or children, if any, continue to be eligible for survivor benefits, including
4.20 the minimum benefit under section 353.657, subdivision 3. The designated optional
4.21 annuity beneficiary may draw the monthly benefit; however, the amount payable to the
4.22 dependent child or children and joint annuitant must not exceed the 70 percent maximum
4.23 family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the
4.24 benefit of the joint annuitant must be reduced to the amount necessary so that the total
4.25 family benefit does not exceed the 70 percent maximum family benefit amount.

4.26 (3) If the spouse is named as the beneficiary of the joint and survivor optional
4.27 annuity, the spouse may draw the monthly benefit; however, the amount payable to
4.28 the dependent child or children and the joint annuitant must not exceed the 70 percent
4.29 maximum family benefit under section 353.657, subdivision 3. If the maximum is
4.30 exceeded, each dependent child will receive ten percent of the member's specified average
4.31 monthly salary, and the benefit to the joint annuitant must be reduced to the amount
4.32 necessary so that the total family benefit does not exceed the 70 percent maximum family
4.33 benefit amount. The joint and survivor optional annuity must be restored to the surviving
4.34 spouse, plus applicable postretirement adjustments under section 356.41, as the dependent
4.35 child or children become no longer dependent under section 353.01, subdivision 15.

5.1 Sec. 8. Minnesota Statutes 2006, section 353.656, subdivision 3, is amended to read:

5.2 Subd. 3. **Nonduty Regular disability benefit.** ~~(a)~~ Any member of the police and
5.3 fire plan who has at least one year of allowable service credit and who:

5.4 (1) has not met the requirements for a retirement annuity under section 353.651,
5.5 subdivision 1, or

5.6 (2) has met the requirements for a retirement annuity under section 353.651,
5.7 subdivision 1, but who does not have 15 years of credited service; and who ~~becomes~~
5.8 ~~disabled after not less than one year of allowable service because of sickness or injury~~
5.9 ~~occurring while not on duty as a police officer, firefighter, or paramedic as defined under~~
5.10 ~~section 353.64, subdivision 10, and by reason of that sickness or injury the member has~~
5.11 ~~been or is expected to be unable to perform the duties as a police officer, firefighter, or~~
5.12 ~~paramedic as defined under section 353.64, subdivision 10, for a period of at least one~~
5.13 ~~year; is determined to qualify for a regular disability benefit as defined in section 353.01,~~
5.14 ~~subdivision 41, clause (2), is entitled to receive a disability benefit in an amount equal to~~
5.15 ~~45 percent of the "average salary" as defined in section 353.01, subdivision 17a.~~

5.16 ~~(b)~~ The benefit must be paid in the same manner as if the benefit were paid under
5.17 section 353.651. If a disability under this subdivision:

5.18 (i) is payable based upon this clause, the disability benefit must be paid for a period
5.19 of 60 months from the effective date and at the end of that period is subject to the
5.20 provisions of subdivision 5a; and

5.21 (ii) occurs after one but in less than 15 before the member has at least five years of
5.22 allowable service credit in the police and fire plan, the disability benefit must be computed
5.23 on the same as though the member had at least 15 years service "average salary" from
5.24 which deductions were made for contributions to the police and fire fund. For a member
5.25 who is employed as a full-time firefighter by the Department of Military Affairs of the
5.26 state of Minnesota, allowable service as a full-time state Military Affairs Department
5.27 firefighter credited by the Minnesota State Retirement System may be used in meeting the
5.28 minimum allowable service requirement of this subdivision.

5.29 Sec. 9. Minnesota Statutes 2006, section 353.656, subdivision 4, is amended to read:

5.30 Subd. 4. **Limitation on disability benefit payments.** (a) No member is entitled to
5.31 receive a disability benefit payment when there remains to the member's credit unused
5.32 annual leave ~~or~~, sick leave, or any other employer-provided salary continuation plan, or
5.33 under any other circumstances when, during the period of disability, there has been no
5.34 impairment of the person's salary as a police officer, a firefighter, or a paramedic as defined
5.35 in section 353.64, subdivision 10, whichever applies.

6.1 (b) If a disabled member resumes a gainful occupation with earnings that, when
 6.2 added to the normal disability benefit, and workers' compensation benefit if applicable,
 6.3 exceed the disabilitant reemployment earnings limit, the amount of the disability benefit
 6.4 must be reduced as provided in this paragraph. The disabilitant reemployment earnings
 6.5 limit is the greater of:

6.6 (1) the salary earned at the date of disability; or

6.7 (2) 125 percent of the base salary currently paid by the employing governmental
 6.8 subdivision for similar positions.

6.9 The disability benefit must be reduced by one dollar for each three dollars by which
 6.10 the total amount of the current disability benefit, any workers' compensation benefits if
 6.11 applicable, and actual earnings exceed the greater disabilitant reemployment earnings
 6.12 limit. In no event may the disability benefit as adjusted under this subdivision exceed
 6.13 the disability benefit originally allowed.

6.14 Sec. 10. Minnesota Statutes 2006, section 353.656, subdivision 5a, is amended to read:

6.15 Subd. 5a. **Cessation of disability benefit.** (a) The association shall cease the
 6.16 payment of ~~an in-line-of-duty or nonduty~~ any disability benefit the first of the month
 6.17 following the reinstatement of a member to full time or less than full-time service in a
 6.18 position covered by the police and fire fund.

6.19 (b) A disability benefit paid to a disabled member of the police and fire fund
 6.20 terminates at the end of the month in which the member:

6.21 (1) reaches normal retirement age;

6.22 (2) if the disability benefit is payable for a 60-month period as determined under
 6.23 subdivisions 1 and 3, as applicable, the first of the month following the expiration of
 6.24 the 60-month period; or

6.25 (3) if the disabled member so chooses, the end of the month in which the member
 6.26 has elected to convert to an early retirement annuity under section 353.651, subdivision 4.

6.27 If the police and fire fund member is still disabled when the benefit being paid ceases
 6.28 under this subdivision, the member is deemed to be retired and, if the member had elected
 6.29 an optional annuity under subdivision 1a, must receive an annuity in accordance with the
 6.30 terms of the optional annuity previously elected. If the member had not elected an optional
 6.31 annuity under subdivision 1a, the member may elect to receive a normal retirement
 6.32 annuity under section 353.651, or to receive an optional annuity as provided in section
 6.33 353.30, subdivision 3, based on the same length of service as used in the calculation of the
 6.34 disability benefit or the member's actual years of accrued service and the laws in effect at
 6.35 the time the disability benefit payments first began to accrue, whichever is greater.

7.1 (c) A member of the police and fire fund who is receiving a disability benefit under
 7.2 this section may, upon application, elect to receive an early retirement annuity under
 7.3 section 353.651, subdivision 4, at any time after attaining age 50, but must convert to a
 7.4 retirement annuity no later than the end of the month in which the disabled member attains
 7.5 normal retirement age. An early retirement annuity elected under this subdivision must be
 7.6 calculated on the disabled member's accrued years of service and average salary as defined
 7.7 in section 353.01, subdivision 17a, and when elected, the member is deemed to be retired.

7.8 (d) When a disabled member's benefit is recalculated as a retirement annuity under
 7.9 this section, any postretirement percentage increases provided under section 11A.18 that
 7.10 were added to the disability benefit previously paid must be included in the computation
 7.11 of the retirement annuity payable using the member's accrued years of service and average
 7.12 salary as defined in section 353.01, subdivision 17a.

7.13 Sec. 11. Minnesota Statutes 2006, section 353.656, subdivision 6a, is amended to read:

7.14 Subd. 6a. **Disability survivor benefits.** If a member who is receiving a disability
 7.15 benefit ~~under subdivision 1 or 3~~ that was granted under the laws in effect before July
 7.16 1, 2007:

7.17 (1) dies before attaining ~~the normal retirement age required for receipt of a~~
 7.18 ~~retirement annuity under section 353.651, subdivision 1~~ as defined under section 353.01,
 7.19 subdivision 37, paragraph (b), or within five years of the effective date of the disability,
 7.20 whichever is later, the surviving spouse shall receive a survivor benefit under section
 7.21 353.657, subdivision 2, paragraph (a), clause (2); or 2a, unless the surviving spouse
 7.22 elected to receive a refund under section 353.32, subdivision 1. The joint and survivor
 7.23 optional annuity under subdivision 2a is based on the minimum disability benefit under
 7.24 subdivision 1 or 3, or the deceased member's allowable service, whichever is greater;

7.25 (2) is living at the age required for receipt of a retirement annuity under section
 7.26 353.651, subdivision 1, or five years after the effective date of the disability, whichever
 7.27 is later, the member may continue to receive a normal disability benefit, or the member
 7.28 may elect a joint and survivor optional annuity under section 353.30. The optional annuity
 7.29 is based on the minimum disability benefit under subdivision 1 or 3, or the member's
 7.30 allowable service, whichever is greater. The election of this joint and survivor annuity
 7.31 must occur within 90 days ~~of the~~ prior to attaining normal retirement age required for
 7.32 ~~receipt of a retirement annuity under section 353.651, subdivision 1~~ as defined under
 7.33 section 353.01, subdivision 37, paragraph (b), or the five-year anniversary of the effective
 7.34 date of the disability benefit, whichever is later. The optional annuity takes effect the first
 7.35 of the month following the month in which the person attains the age required for receipt

8.1 of a retirement annuity under section 353.651, subdivision 1, or reaches the five-year
8.2 anniversary of the effective date of the disability benefit, whichever is later; or

8.3 (3) has a dependent child or children under clause (1) or (2), the association shall
8.4 grant a dependent child benefit under section 353.657, subdivision 3.

8.5 Sec. 12. Minnesota Statutes 2006, section 353.656, subdivision 10, is amended to read:

8.6 Subd. 10. **Accrual of benefits.** (a) A disability benefit begins to accrue ~~the day~~
8.7 ~~following the commencement of disability;~~ when the applicant is no longer receiving any
8.8 form of compensation, whether salary or paid leave 90 days preceding the filing of an
8.9 application; or, if annual or sick leave, or any other employer-paid salary continuation
8.10 plan is paid for more than the 90-day period, from the date on which the payment of salary
8.11 ceased, whichever is later. No member is entitled to receive a disability benefit payment
8.12 when there remains to the member's credit any unused annual leave, sick leave, or any
8.13 other employer-paid salary continuation benefit, or under any other circumstances when,
8.14 during the period of disability, there has been no impairment of the person's salary.

8.15 (b) Payment of the disability benefit must not continue beyond the end of the month
8.16 in which entitlement has terminated. If the disabilitant dies prior to negotiating the check
8.17 for the month in which death occurs, payment must be made to the surviving spouse or, if
8.18 none, to the designated beneficiary or, if none, to the estate.

8.19 Sec. 13. Minnesota Statutes 2006, section 353.656, is amended by adding a subdivision
8.20 to read:

8.21 Subd. 13. **Chemical dependency limitations to disability benefit eligibility.** No
8.22 benefits shall be payable for any disability resulting in whole or in part from the member's
8.23 current use of illegal drugs. This exclusion does not apply to a member who:

8.24 (1) has successfully completed a supervised drug rehabilitation program or has
8.25 otherwise been rehabilitated successfully and is no longer engaging in such use; or

8.26 (2) is participating in a supervised rehabilitation program and is no longer engaging
8.27 in such use.

8.28 "Illegal use of drugs" means the use of drugs, the possession or distribution of which
8.29 is unlawful under United States Code, title 21, section 801. "Illegal use of drugs" does not
8.30 include the use of a drug taken under the supervision of a licensed health care professional,
8.31 or other uses authorized by United States Code, title 21, or other provisions of law.

8.32 Sec. 14. Minnesota Statutes 2006, section 353.657, subdivision 1, is amended to read:

9.1 Subdivision 1. **Generally.** In the event a member of the police and fire fund
 9.2 dies from any cause before retirement or ~~after~~ before becoming disabled and receiving
 9.3 disability benefits, the association shall grant survivor benefits to a surviving spouse, as
 9.4 defined in section 353.01, subdivision 20, ~~and who was married to the member for a~~
 9.5 ~~period of at least one year, except that~~ and to a dependent child or children, as defined in
 9.6 section 353.01, subdivision 15, as follows:

9.7 (1) if death occurs in the line of duty, no time limit is required; and

9.8 (2) if death occurs while not on duty, the member must have accrued at least three
 9.9 years of credited service.

9.10 ~~For purposes of this section, line of duty also includes active military service, as~~
 9.11 ~~defined in section 190.05, subdivision 5. The association shall also grant survivor benefits~~
 9.12 ~~to a dependent child or children, as defined in section 353.01, subdivision 15.~~

9.13 Notwithstanding the definition of surviving spouse, a former spouse of the member,
 9.14 if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under
 9.15 the terms of a marriage dissolution decree filed with the association. If there is no
 9.16 surviving spouse or child or children, a former spouse may be entitled to a lump-sum
 9.17 refund payment under section 353.32, subdivision 1, if provided for in a marriage
 9.18 dissolution decree but not a monthly surviving spouse benefit despite the terms of a
 9.19 marriage dissolution decree filed with the association.

9.20 The spouse and child or children are entitled to monthly benefits as provided in
 9.21 ~~the following~~ subdivisions 2 to 4.

9.22 Sec. 15. Minnesota Statutes 2006, section 353.657, subdivision 2, is amended to read:

9.23 Subd. 2. **Benefit amount.** (a) The spouse, for life, of a member shall receive a
 9.24 monthly benefit for life equal to 50 percent the following percentage of the member's
 9.25 average full-time monthly salary rate as a member of the police officer or firefighter
 9.26 and fire fund in effect over the last six months of allowable service preceding the month
 9.27 in which death occurred;:

9.28 (1) if the death occurred in the line of duty, 60 percent of the stated average salary
 9.29 is payable; and

9.30 (2) if the death occurred while not on duty or while receiving disability benefits that
 9.31 accrued prior to July 1, 2007, 50 percent of the stated average salary is payable.

9.32 (b) If the member was a part-time employee in the position for which the employee
 9.33 qualified for participation in the police officer or firefighter and fire fund, the monthly
 9.34 survivor benefit is based on the salary rate in effect for that member's part-time service
 9.35 during the last six months of allowable service. If the member's status changed from full

10.1 time to part time for health reasons during the last year of employment, the monthly
 10.2 survivor benefit is based on the full-time salary rate of ~~a~~ the position held as a member of
 10.3 the police officer or firefighter and fire fund in effect over the last six months of allowable
 10.4 service preceding the month in which the death occurred.

10.5 Sec. 16. Minnesota Statutes 2006, section 353.657, subdivision 2a, is amended to read:

10.6 Subd. 2a. **Death while eligible survivor benefit.** (a) If a member or former
 10.7 member who has attained the age of at least 50 years and has credit for not less than
 10.8 three years allowable service or who has credit for at least 30 years of allowable service,
 10.9 regardless of age attained, dies before the annuity or disability benefit becomes payable,
 10.10 notwithstanding any designation of beneficiary to the contrary, the surviving spouse may
 10.11 elect to receive a death while eligible survivor benefit.

10.12 (b) Notwithstanding the definition of surviving spouse in section 353.01, subdivision
 10.13 20, a former spouse of the member, if any, is entitled to a portion of the death while
 10.14 eligible survivor benefit if stipulated under the terms of a marriage dissolution decree
 10.15 filed with the association. If there is no surviving spouse or child or children, a former
 10.16 spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision
 10.17 1, if provided for in a marriage dissolution decree but not a death while eligible survivor
 10.18 benefit despite the terms of a marriage dissolution decree filed with the association.

10.19 (c) The benefit may be elected instead of a refund with interest under section 353.32,
 10.20 subdivision 1, or surviving spouse benefits otherwise payable under subdivisions 1 and
 10.21 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity
 10.22 which the member could have qualified for on the date of death, computed as provided in
 10.23 sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3.

10.24 (d) If there is a dependent child or children, and the 100 percent joint and survivor
 10.25 optional annuity for the surviving spouse, when added to the benefit of the dependent child
 10.26 or children under subdivision 3, exceeds an amount equal to:

10.27 (1) 80 percent of the member's average specified monthly salary, if death is
 10.28 duty-related; or

10.29 (2) 70 percent of the member's specified average monthly salary, if death is not
 10.30 duty-related or occurred while receiving disability benefits which accrued before July 1,
 10.31 2007, the 100 percent joint and survivor annuity must be reduced by the amount necessary
 10.32 so that the total family benefit does not exceed the 70 percent maximum family benefit
 10.33 amount under subdivision 3, as applicable.

10.34 (e) The 100 percent joint and survivor optional annuity must be restored to the
 10.35 surviving spouse, plus applicable postretirement fund adjustments under section 356.41,

11.1 as the dependent child or children become no longer dependent under section 353.01,
11.2 subdivision 15.

11.3 (f) The surviving spouse may apply for the annuity at any time after the date on
11.4 which the deceased employee would have attained the required age for retirement based on
11.5 the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision
11.6 2, apply to a deferred annuity payable under this subdivision.

11.7 (g) No payment shall accrue beyond the end of the month in which entitlement to
11.8 such annuity has terminated. An amount equal to the excess, if any, of the accumulated
11.9 contributions which were credited to the account of the deceased employee over and
11.10 above the total of the annuities paid and payable to the surviving spouse must be paid to
11.11 the deceased member's last designated beneficiary or, if none, to the legal representative of
11.12 the estate of such deceased member.

11.13 (h) Any member may request in writing that this subdivision not apply and that
11.14 payment be made only to the designated beneficiary, as otherwise provided by this chapter.

11.15 (i) For a member who is employed as a full-time firefighter by the Department of
11.16 Military Affairs of the state of Minnesota, allowable service as a full-time state Military
11.17 Affairs Department firefighter credited by the Minnesota State Retirement System may be
11.18 used in meeting the minimum allowable service requirement of this subdivision.

11.19 Sec. 17. Minnesota Statutes 2006, section 353.657, subdivision 3, is amended to read:

11.20 Subd. 3. **Dependent children.** A dependent child, as defined in section 353.01,
11.21 subdivision 15, shall receive a monthly benefit equal to ten percent of the member's
11.22 average full-time monthly salary rate as a member of the police officer or firefighter and
11.23 fire fund in effect over the last six months of allowable service preceding the month in
11.24 which death occurred. Payments for the benefit of a dependent child must be made to the
11.25 surviving parent, or to the legal guardian of the child or to any adult person with whom the
11.26 child may at the time be living, provided only that the parent or other person to whom
11.27 any amount is to be paid advises the board in writing that the amount will be held or used
11.28 in trust for the benefit of the child. The maximum monthly benefit for one family must
11.29 not exceed an amount equal to:

11.30 (1) 80 percent if the member's death is duty-related; or

11.31 (2) 70 percent, if the member's death is not duty-related or occurred while the
11.32 member was receiving a disability benefit that accrued before July 1, 2007, of the
11.33 member's specified average monthly salary, and the minimum benefit per family, including
11.34 the joint and survivor optional annuity under subdivision 2a, and section 353.656,
11.35 subdivision 1a, must not be less than 60 percent if the death is duty-related or 50 percent

12.1 if the death is not duty-related or occurred while the member was receiving a disability
 12.2 benefit that accrued before July 1, 2007, of the member's specified average monthly salary.

12.3 Sec. 18. **[353E.001] DEFINITIONS.**

12.4 Subdivision 1. **Occupational disability.** "Occupational disability," for purposes of
 12.5 determining eligibility for disability benefits, means a disabling condition that is expected
 12.6 to prevent a member, for a period of not less than 12 months, from performing the normal
 12.7 duties of a local government correctional service employee as defined under section
 12.8 353E.02. Occupational disability benefits are awarded as:

12.9 (1) duty disability, physical or psychological, which means a disabling condition that
 12.10 is the direct result of an injury incurred during, or a disease arising out of, the performance
 12.11 of normal duties or the actual performance of less frequent duties, either of which are
 12.12 specific to protecting the property and personal safety of others and that present inherent
 12.13 dangers that are specific to the positions covered by the local government correctional
 12.14 service retirement plan; or

12.15 (2) regular disability, physical or psychological, which means a disabling condition
 12.16 resulting from a disease or an injury that arises from any activities while not at work or
 12.17 while at work from performing those normal or less frequent duties that do not present
 12.18 inherent dangers that are specific to the occupations covered by the local government
 12.19 correctional service retirement plan.

12.20 Subd. 2. **Normal duties.** "Normal duties" means specific tasks designated in the
 12.21 applicant's job description and which the applicant performs on a day-to-day basis, but
 12.22 do not include less frequent duties which may be requested to be done by the employer
 12.23 from time to time.

12.24 Subd. 3. **Less frequent duties.** "Less frequent duties" means tasks designated in the
 12.25 applicant's job description as either required from time to time or as assigned, but which
 12.26 are not carried out as part of the normal routine of the applicant's job.

12.27 Sec. 19. Minnesota Statutes 2006, section 353E.06, subdivision 1, is amended to read:

12.28 Subdivision 1. **Duty disability qualification requirements.** A local government
 12.29 correctional employee who ~~becomes disabled and physically or mentally unfit to perform~~
 12.30 ~~the duties of the position as a direct result of an injury, sickness, or other disability that~~
 12.31 ~~is medically determinable, that was incurred in or arose out of any act of duty, and that~~
 12.32 ~~renders the employee physically or mentally unable to perform the employee's duties~~ is
 12.33 determined to qualify for a duty disability as defined in section 353E.001, subdivision
 12.34 1, clause (1), is entitled to a disability benefit. The disability benefit must be based on

13.1 covered service under this chapter only and is an amount equal to 47.5 percent of the
13.2 average salary defined in section 353E.04, subdivision 2, plus an additional percent equal
13.3 to that specified in section 356.315, subdivision 5a, for each year of covered service
13.4 under this chapter in excess of 25 years.

13.5 Sec. 20. Minnesota Statutes 2006, section 353E.06, subdivision 2, is amended to read:

13.6 Subd. 2. ~~Nonduty~~ **Regular disability qualification requirements.** A local
13.7 government correctional employee who has at least one year of covered service under this
13.8 chapter and ~~becomes disabled and physically or mentally unfit to perform the duties of~~
13.9 ~~the position because of sickness or injury that is medically determinable and that occurs~~
13.10 ~~while not engaged in covered employment,~~ who is determined to qualify for a regular
13.11 disability benefit as defined in section 353E.001, subdivision 1, clause (2), is entitled to a
13.12 disability benefit based on covered service under this chapter. The disability benefit must
13.13 be computed in the same manner as an annuity under section 353E.04, subdivision 3, and
13.14 as though the employee had at least ten years of covered correctional service.

13.15 Sec. 21. **EFFECTIVE DATE.**

13.16 Sections 1 to 20 are effective July 1, 2007, and apply to a disability applicant whose
13.17 last day worked is after June 30, 2007, or any survivor benefit payable based upon the
13.18 death of an active member after June 30, 2007.