



H.F. 125 *in the form of delete-all H0125-3A*
(Murphy, M., by request)

S.F. 84
(Betzold, by request)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-P&F and PERA-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 353.01; 353.65; 353.656; 353.657; 353E.06; proposing coding for new law in Chapter 353E.
General Nature of Proposal: Revises disability definitions and disability and surviving spouse benefits related to new disabilities or deaths occurring after the effective date.
Date of Summary: April 23, 2007

Specific Proposed Changes

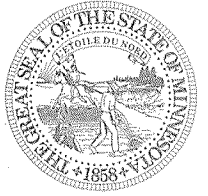
- For PERA-P&F new disabilities:
 - Revises duty disability definition to be a disability incurred while performing job-related duties that reflect inherent dangers. All other disabilities will be regular disabilities.
 - Caps duty disabilities at 60% of high-five average salary, rather than permitting additional benefit amounts for years in excess of 20, and capping regular PERA-P&F disabilities at 45% of average salary.
 - Disability benefits will be payable for no more than five years if disability occurs at or after age 55.
 - Disability benefits will generally be converted to retirement annuities at age 55.
 - Disability benefits will be prohibited if due to illegal drugs and drug use has not terminated.
- Three years of service, rather than one year, requirement for PERA-P&F not in the line of duty survivor benefit.
- Increases PERA-P&F death-while-active surviving spouse benefits from 50% to 60% of final salary.
- PERA-P&F early retirement for new members will require a 0.2 percent, rather than 0.1 percent, per month reduction for each month the individual is under age 55 at the time of retirement.
- Impacts PERA-Correctional duty disability requirements by creating definitions of duty disability, regular disability, less frequent duties, and normal duties, and revising disability provisions to use the new definitions.

Policy Issues Raised by the Proposed Legislation

1. Whether duty definition is sufficiently clear to avoid disagreements about who qualifies.
2. Whether the proposed changes are compatible with Age Discrimination Act (ADA) requirements.
3. Whether there should be more categories of disabilitants and more classes of benefit levels.
4. In other bills PERA is proposing to require employers to identify all actions taken to find continued employment for the individual, but this bill fails to indicate any use for that information.
5. Cost shifting within the multi-employer plan could be reduced by requiring the specific employer to finance a larger share of the disability costs for its employees, but the bill fails to require that.
6. Proposed change in early retirement reductions is not clearly related to disability utilization problems.
7. Removal of military duty language.
8. Whether there is sufficient need to include the revisions to PERA-Correctional.

Potential Amendments

- H0125-4A is a technical amendment.
- H0125-5A revises the transfer-to-normal retirement dates general from age 55 to age 65.
- H0125-6A revises the proposal to apply to new hires rather than to all new disabilitants after the effective date.
- H0125-7A removes the PERA-Correctional employee provisions.
- H0125-8A creates new categories of duty/regular disabilitants for those who qualify under more stringent general employees plan disability definitions, allows Commission to create higher benefits for these two groups.
- H0125-9A allows the Commission to set different treatment for regular disabilitants who are injured at work rather than at leisure time activities.
- H0125-10A charges the employer for the cost of any PERA-P&F regular disability for its employees. The amendment could be tailored to regular disability, or duty disability, or all disabilities, or to charge the employer for a portion of the disability cost rather than the whole cost.
- H0125-11A removes the proposed early retirement benefit changes.
- H0125-12A leaves the proposed early retirement benefit changes but allows disabilitants only to qualify under the 0.1% reduction rather than the proposed 0.2% reduction.
- H0125-13A reinstates the stricken active military duty language.
- H0125-14A removes all revisions in the bills other than the changes in definitions but revises the benefit provisions to use the new definitions.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request), in the form of Delete-Everything Amendment H0125-3A: Adding Definitions for PERA-P&F and PERA-Correctional Disability; Modifying Disability and Survivor Benefits

DATE: April 20, 2007

General Summary of H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)

H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request), in the form of delete-everything amendment H0125-3A, as requested by the Public Employees Retirement Association (PERA), revises Public Employees Police and Fire Retirement Plan (PERA-P&F) disability benefit provisions and survivor provisions relating to all disabilities that commence after July 1, 2007, as follows:

1. New disability categories are created, to replace the existing use of "duty" and "non-duty" to defined categories of disabilitants. As revised, a duty disability is a disability (physical or psychological) related to performing job-related duties that present inherent dangers, rather than being any disability that occurs or is related to being on duty. Regular disability, which replaces non-duty disability in existing statutes, is any job-related disability resulting from activity that did not present inherent danger, and also all disabilities resulting from any non-duty activity.
2. Duty disabilities will be capped at 60 percent of the high-five salary, rather than 60 percent plus three percent of the high-five for each year of service over 20. Regular disabilities are capped at 45 percent of the high-five salary, rather than being computed like a service annuity based on actual service, with a minimum benefit of 45 percent of the high-five.
3. Disabilitants (duty-related and regular) who are at least 55 at the time of disability but have less than 20 years service in duty disability cases, or 15 years service in regular disability cases, can receive disability benefits for five years, then the disability benefit must terminate.
4. The disability benefit is converted to a retirement annuity when the member reaches age 55; or for those who are 55 when the disability commenced, on the five year anniversary of the disability; or when a member elects to convert to an early retirement annuity rather than the disability benefit.
5. Disability benefits can be retroactive for up to 90 days if salary or salary-equivalent benefits were not received during that period.
6. Disability benefits are not allowed if disability is due to illegal drug use and the individual has not taken part in a rehab program and ceased drug use.
7. Three years of service, rather than one year of service, will be required to qualify for surviving spouse annuities if the member's death was not a line-of-duty death. (A "line-of-duty death" is a new term defined as a death that occurs while performing duties specific to protecting the property and personal safety of others and that present inherent dangers specific to the positions covered by the PERA-P&F. A "not-line-of-duty death" is any death that is not a line-of-duty death.)
8. Surviving spouse benefits in death-while-active situations are increased from 50 percent to 60 percent of final salary in line-of-duty death situations, and the family maximums related to line-of-duty deaths are revised accordingly.
9. Early retirement (by any individual who becomes a PERA-P&F member after June 30, 2007, or by a former member who is reinstated after that date) will require a reduction of .2 percent for each month that the individual is under age 55, rather than one-tenth.

The delete-everything amendment also creates definitions of duty disability, regular disability, less frequent duties, and normal duties, in the Local Government Correctional Employees Retirement Plan of the Public Employees Retirement Association (PERA-Correctional) comparable to those discussed above for PERA-P&F, and revises the PERA-Correctional duty and non-duty disability provisions use the newly defined terms.

Section-by-Section Summary of Delete-Everything Amendment H0125-3A

Section 1. Minnesota Statutes, Section 353.01 (PERA's definition section), Subdivision 37, the normal retirement age definition, is revised to adding the normal retirement age, age 55, applicable to PERA-P&F and PERA-Correctional plan members.

Section 2. Section 353.01 is revised by adding a subdivision defining duty disability. A duty disability means a physical or psychological disabling condition, expected to prevent the member from performing the normal duties of the position for a period of at least one year, and which is due to an injury or disease incurred in performance of normal duties or less frequent duties while protecting the property and personal safety of others, and that presents inherent dangers that are specific to the position covered by PERA-P&F.

Section 3. Section 353.01 is revised by adding a definition of less frequent duties, defined as tasks in the job description performed occasionally, which are not carried out as part of the normal routine of the applicant's job.

Section 4. Section 353.01 is revised by adding a definition of "line of duty death." A line-of-duty death means a death that occurs while performing normal or less frequent duties which are specific to protecting the property and personal safety of others and that present inherent dangers specific to the positions covered by PERA-P&F.

Section 5. Section 353.01 is revised by adding a definition of normal duties, defined as specific tasks designated in the applicant's job description, not including less frequent duties performed occasionally.

Section 6. Section 353.01 is revised by adding a definition of "not line of duty death", which is any death that is not a line-of-duty death.

Section 7. Section 353.01 is revised by adding a subdivision defining regular disability. Regular disability means a physical or psychological disabling condition, expected to prevent the member from performing the normal duties of the position for a period of at least one year, which results from a disease or injury incurred from activities while not at work, or while at work performing duties that do not present inherent danger specific to the occupations covered by PERA-P&F.

Section 8. The PERA-P&F early retirement provision, Section 353.651, Subdivision 4, is revised to provide for new members hired after June 30, 2007, or for any former member who is reinstated after that date, that early retirement will require a reduction of two-tenths percent, rather than one-tenth percent, for each month that the individual is under age 55.

Section 9. The PERA-P&F line-of-duty disability provision, Section 353.656, Subdivision 1, is renamed the duty disability provision, and the benefit will be capped at 60 percent of the high-five average salary, rather than 60 percent of the high-five average salary plus an additional three percent of the high-five salary for each year of service in excess of 20. To be eligible for a duty disability, the individual must be less than normal retirement age or must have less than 20 years service credit. If the disability was at least 55 when the disability benefit commences but has less than 20 years of service, the disability benefit is terminated after five years and is transformed into a retirement benefit, as further specified in Section 13.

Section 10. Section 353.656, Subdivision 1a, a PERA-P&F disability optional annuity election provision, is revised by specifying that an optional annuity may be elected upon application for a disability benefit; or within 90 days of attaining age 55; or upon application to convert to an early retirement annuity payment; or if the disability was at least 55 when the disability occurred but had less than 20 years of service, 90 days prior to the five-year termination date of the disability benefit. If a joint-and-survivor annuity was elected and the disability dies before the date the disability benefit is transformed into a retirement benefit, the beneficiary may elect to have the benefit recomputed whenever recalculation of the benefit as a retirement benefit would provide an increased monthly payment amount.

Section 11. Section 353.656, Subdivision 3, the PERA-P&F non-duty disability benefit, is revised to be the "regular" disability benefit. The benefit is capped at 45 percent of the high-five average salary, rather than 45 percent of the high-five salary plus three percent of that salary for each year of service in excess of 15. If the individual was at least 55 when disability occurred but does not have 15 years of service credit, the benefit is payable for only five years, and is then subject to requirements in Section 13.

Section 12. Section 353.656, Subdivision 4, a PERA-P&F limitation on disability benefit provision, is revised by clarifying that the benefit cannot commence while the employee is on any form of employer-provided by a salary continuation plan or provision.

Section 13. Section 353.656, Subdivision 5a, a PERA-P&F cessation-of-disability-benefit provision, is revised by stating that the benefit ends:

- (1) When the individual reaches normal retirement age; or
- (2) If the disability benefit is required to terminate after five years (60 months), on the first of the month following the expiration of the five year period; or
- (3) If the disabled member chooses, the end of the month in which the disabilitant elects to convert to an early retirement annuity.

If the individual remains disabled when the disability benefit terminates, the individual is deemed to be retired. The retirement annuity will be based on the number of years used in the disability benefit calculation or the actual years of service, whichever produces a higher benefit, and will include all prior benefit adjustments. Except as otherwise stated in this subdivision, the applicable law for computing the retirement annuity is the law in effect when the disability benefit was computed.

Section 14. A PERA-P&F disability survivor benefits provision, Section 353.656, Subdivision 6a, is revised to be applicable to only in cases where the disability benefit was granted prior to July 1, 2007. (Under this language, individuals who commenced disability benefits under laws applicable prior to July 1, 2007 and who reach normal retirement age are permitted to retain their status as disabilitants, rather than being classified as a retiree.)

Section 15. Section 353.656, Subdivision 10, a PERA-P&F disability benefit accrual provision, is revised by prohibiting a disability benefit to commence while the individual is receiving salary or any salary-related form of compensation.

Section 16. Section 353.656, the PERA-P&F disability benefit section, is amended by adding a new subdivision which prohibits payment of disability benefits if the disability results from use of illegal drugs, unless the individual was in, or is currently in, a drug rehabilitation program and is not longer engaging in use of illegal drugs.

Section 17. Section 353.657, Subdivision 1, a death while active or disabled survivor benefit eligibility provision, is revised to make it apply only in active or deferred situations; by specifying that if the death was not a line-of-duty death the member must have accrued three years of service, rather than one year, for the spouse to be eligible for any annuity; and by striking language which stated that active military service is considered to be line of duty for purposes of qualifying for PERA benefits.

Section 18. Section 353.657, Subdivision 2, a survivor benefit amount provision, is amended to apply in death while active or deferred situations and to provide a surviving spouse benefit of 60 percent of average salary for a line-of-duty death; or a 50 percent of average salary benefit in all other cases, including if the death occurred while receiving disability benefits that accrued prior to July 1, 2007, rather than 50 percent of average salary in all cases.

Section 19. Section 353.657, Subdivision 2a, a PERA-P&F death-while-eligible survivor benefit provision, is amended by striking language to be moved to another section.

Section 20. Section 353.657, Subdivision 3, a PERA-P&F dependent child provision, is amended by subdividing the provision into two subdivisions, and making the existing family maximum (70 percent of average salary) apply if the member's death is not a line-of-duty death or if death occurred while receiving a disability benefit that accrued before July 1, 2007, and by increasing the family maximum and minimum to 80 percent and 60 percent, respectively, in line-of-duty death situations.

Section 21. New Section 353E.001, to be added to the PERA-Correctional chapter, defining duty disability, less frequent duties, normal duties, and regular duties. These definitions are comparable to those made for PERA-P&F in earlier sections.

Section 22. Section 353E.06, Subdivision 1, the PERA-Correctional duty disability provision, is revised by striking language moved to Section 21.

Section 23. Section 353E.06, Subdivision 2, the PERA-Correctional non-duty disability provision, is revised to be a "regular" disability provision, and is revised by striking language moved to Section 21.

Section 24, Effective Date. Sections 1 to 23 are effective July 1, 2007. Sections 2 to 7, 9 to 13, and 21 to 23 apply to disability applicants whose last day worked is after June 30, 2007. Sections 14, 17, and 18 apply to any survivor benefit payable based on the death of a member after June 30, 2007.

Background Information

High levels of disability utilization have been a problem in public safety plans, as is documented in Attachment A. While general employee plans set a stringent requirement to qualify for disability, a requirement that the individual must be incapable due to injury or disease of performing any meaningful employment, public safety plans typically use a requirement that the individual be unable to perform in the individual's assigned position. While unquestionably there are many public safety disabilitants who are severely disabled as a result of protecting the safety of others, there are also public safety plan disabilitants who have marginal impairments and function well, with considerably employable skills, who sustained injury while not at work, or while at work but not performing an employment-related duty.

Current federal and state laws provide a significant financial incentive for public safety employees to seek a disability benefit from the pension plan, rather than continuing in employment covered by the plan or taking a retirement annuity. Disability benefits in our statewide public safety plans are computed like a retirement annuity, but without any reduction due to early receipt. While on disability, automatic surviving spouse coverage is provided without requiring any reduction to the monthly annuity to provide that coverage. In contrast, an early retirement annuity would require selection of a joint-and-survivor annuity with a monthly benefit reduction to pay for that coverage. A duty-related disabilitant may also receive employer-paid healthcare. Finally, disability benefits may also receive favorable tax treatment. A disability benefit may be tax free, while a retirement annuity would be taxable. All these forces combine to create a powerful financial incentive, as individuals approach the age where the individual might consider an early retirement annuity, to seek a disability determination instead.

More extensive background information is provided in the following attachments:

- A. PERA Disability Benefits and Disability Issues. Additional information on PERA-P&F disability issues, including the nature of current PERA-P&F disability benefits, the cost of disability benefit programs, and disability utilization problems is provided in Attachment A.
- B. Federal Income Tax Treatment. Background information on federal income tax treatment of disability benefit coverage is provided in Attachment B.

Discussion and Analysis

In an effort to reduce or at least control PERA-P&F plan disabilitant costs, PERA is proposing, in delete-everything amendment H0125-3A to H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request), to reduce the incentive to seek disability. Within the delete-everything amendment, PERA is proposing to do this by revising disabilitant categories and benefits for any new disabilitants and potential survivors. PERA began addressing PERA-P&F disability usage issues in 2004, when PERA-proposed provisions were enacted as Laws 2004, Chapter 267, Article 8, Sections 20 to 25. This delete-everything amendment to H.F. 125; S.F. 84 is a further effort, as is H.F. 127 (Murphy, M.); S.F. 85 (Betzold). The 2004 changes were:

1. Requiring evidence that the applicant is unable to perform duties of the position held at the time of the disability if the application is filed within two years of the onset of the disabling injury or illness;
2. Requiring evidence that the applicant is unable to perform duties assigned within 90 days of the application date if the application is filed more than two years after of the onset of the disabling injury or illness;
3. Requiring first reports of injury in all duty-related applications;
4. Requiring in all cases that the employer must provide evidence that the applicant is unable to perform applicable duties;
5. Voiding the disability application if termination from service does not occur within 45 days after approval of a disability application;
6. Clarifying that individuals may simultaneously apply for disability and retirement benefits, although both may not be received at the same time; and
7. Permitting repayment of refunds no later than six months after the effective date of the disability benefit.

Delete-everything amendment H0125-3A raises several pension and related public policy issues for Commission consideration and discussion, as follows:

1. Need for Change. The issue is whether there is sufficient need to consider this bill. PERA would contend that the changes contained in this bill are needed to contain PERA-P&F disability utilization and the resultant cost of disability in that plan, and to establish procedures for PERA-Correctional to avoid any possible future disability utilization problems in that plan.

2. Sufficient Clarity in Definitions. The issue is whether the duty disability definition is sufficiently clear to avoid disagreement regarding what is considered to be a duty disability rather than a regular disability. The duty disability definition (which for the PERA-P&F plan appears in the delete-everything amendment H0125-3A on page 1, lines 15 to 22, and for the Local Correctional Plan appears on page 12, lines 28 to 35) defines a duty disability as one which results from performing duties “that present inherent dangers that are specific to the positions covered by the...plan.” Reasonable people may differ regarding what is a duty presenting inherent danger. The Commission may wish to hear from PERA regarding how it intends to interpret the terms in this definition. Under an extreme interpretation, plan members in higher level management or administrative positions might have great difficulty qualifying for duty disability.
3. PERA-P&F Actuarial Condition. The issue is the current actuarial condition of PERA-P&F, its disability costs, and the extent to which the plan requires remedial action to reduce or control costs. Based on the most recent actuarial study for the plan (July 1, 2006), PERA-P&F has \$243 million in unfunded liability and has a 95 percent funding ratio. The required contributions to the plan, as determined by the actuary, to cover normal cost, plan expenses, and to retire the unfunded liability by the plan’s full funding date, is over seven percent of payroll (\$47.2 million) more than the contributions that are being made to plan given the contribution rates in law. Contribution rate increases are being phased in over the next few years in an effort to address the contribution deficiency problem, but increases in plan costs serve to undermine that effort. Attachment A indicates that the plan normal cost for disability is high and has increased considerably over time.

PERA-P&F 2006		
<u>Membership</u>		
Active Members		10,591
Service Retirees		4,756
Disabilitants		765
Survivors		1,280
Deferred Retirees		999
Nonvested Former Members		<u>757</u>
Total Membership		19,148
<u>Funded Status</u>		
Accrued Liability		\$5,260,564,020
Current Assets		<u>\$5,017,950,719</u>
Unfunded Accrued Liability		\$242,613,301
Funding Ratio	95.39%	
<u>Financing Requirements</u>		
Covered Payroll		\$668,088,065
Benefits Payable		\$264,601,229
Normal Cost	22.32%	\$149,097,708
Administrative Expenses	0.11%	\$734,897
Normal Cost & Expense	22.43%	\$149,832,605
Normal Cost & Expense	22.43%	\$149,832,605
Amortization	3.14%	\$20,977,965
Total Requirements	25.57%	\$170,810,570
Employee Contributions	7.40%	\$49,438,517
Employer Contributions	11.10%	\$74,157,775
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	18.50%	\$123,596,292
Total Requirements	25.57%	\$170,810,570
Total Contributions	<u>18.50%</u>	<u>\$123,596,292</u>
Deficiency (Surplus)	7.07%	\$47,214,278

4. Expected Actuarial Impact on PERA-P&F. The issue is the expected impact on PERA-P&F if the package of changes included in delete-everything amendment H0125-3A is recommended to pass, due to reduced disability utilization and lesser benefits to new disabilitants. Commission staff does not have an estimate of this impact; presumably PERA can provide the Commission with this information. In deciding whether to recommend these provisions to pass, the Commission may be interested in whether there will be a sufficient positive impact on financial health of the plan to justify passage despite possible opposition by various parties.

5. Degree of Support by Interested Parties. The issue is the level of support for this proposal by the employee and employer groups. The Commission may wish to hear testimony from these groups.
6. Age Discrimination Act (ADA) Compliance. The issue is whether the proposed change to reestablish the requirement that disabilitants transfer to normal retirement status, generally at age 55, rather than remaining indefinitely as disabilitants, is consistent with the Age Discrimination Act (ADA). MSRS and PERA now both contend that this proposed treatment is ADA-compliant. In 1993, to address ADA issues, MSRS recommended that the last eligible age for disability in public safety plans should be extended from age 55 to age 65. PERA chose a different path and recommended through its administrative proposal that the PERA-P&F provision that required transfer at age 55 to normal retirement should be repealed. Currently, there is some debate about whether some of the age discrimination compliance revisions enacted in 1993 were actually needed in public safety plans. Because the normal retirement age for public safety retirement plans is age 55, not 65 or later as in a general employee retirement plan, PERA and MSRS now contend that there was no need to continue providing disability benefits after age 55 or the five-year anniversary of the disability, whichever is later. PERA, through the current proposal, and MSRS through other bills dealing with MSRS plans, is now recommending that public safety disabilitants should transfer to normal retirement at age 55, or the five-year anniversary of the disability, whichever is later.
7. Other Legal Issue. The issue is whether the proposed change in benefit provisions would be subject to successful legal challenge. Changing benefit provisions for new employees is not a problem, but this bill goes further by altering potential benefits to existing employees who are not in active rather than disability status. This would probably be acceptable. The Commission may wish to hear testimony from PERA regarding whether this proposal has been reviewed by legal staff and whether any portions of the proposal are deemed to be problematic. Changing benefits for individuals who currently are in benefit status would be problematic, but the current proposal does not do that. It applies to anyone who qualifies for disability prior to the effective date, July 1, 2007.
8. General Fairness Issue. The issue is whether the proposal can be considered fair in its proposed treatment regarding transfer-to-normal-retirement requirements and its reductions in benefits. For example, benefit reductions, compared to benefits allowed in existing law, would be imposed on all new long-service disabilitants after June 30, 2007, both those who are marginally disabled and those who are severely disabled. The Commission may wish to consider whether that proposed treatment for individuals who may be severely disabled is fair.
9. Sufficient Categories. Consideration of general fairness issues may lead Commission members to consider whether it would be advisable to create more categories of disabilitants, with more levels of benefits. To address those who are severely disabled, the Commission could create by amendment a category or categories for PERA-P&F members who are sufficiently disabled to meet the more stringent disability eligibility requirements of PERA-General. These individuals could be offered benefits comparable to that in existing law, or greater. The Commission may also wish to consider that, as currently drafted, Amendment H0125-3A lumps individuals who are disabled on the job but not while performing job-related duties in with individuals who are disabled as a consequence of leisure activities. Perhaps, these categories should be separated and separate benefit treatment should be proposed.
10. Failure to Utilize Proposed Employer-Supplied Information on Efforts to Provide Continued Employment to the Potential Disabilitant. In a related bill, H.F. 127 (Murphy, M.); S.F. 85 (Betzold), PERA is proposing to require employing units to provide information on the efforts the employer made to find a position that the disability applicant could perform, rather than going on disability. There is nothing in that bill, or in H.F. 125; S.F. 84, or in the H0125-3A delete-everything amendment to H.F. 125; S.F. 84, which provides any indication of how that information might be used. It appears to have no impact on benefits the individual would receive, eligibility requirements, or any other aspect of PERA disability procedures. The Commission may wish to hear brief testimony on why PERA proposes that it should receive that information.
11. Cost Shifting Issues. The PERA plans are multi-employer plans. Under multi-employer plans, costs imposed by an employer are not borne directly by that employer; rather they are imposed on all contributing employers and employers, through the requirement that the contributors to the plan must meet the plan's long-term funding requirements. One contributing problem to the PERA-P&F disabilitant utilization matter is the incentives created by the ability to shift cost to all contribution units. Individuals with modest impairments who utilize disability are increasing the costs to be paid by others. Similarly, employers who may encourage employees to apply to PERA-P&F disability by

not making a serious effort to accommodate impaired employees by finding or creating a suitable employment position are shifting the cost to others. One use that could be made of the information mentioned in Issue #8 above is to impose an additional cost on those employers who have made insufficient effort to find suitable employment for injured employees, but that has not been proposed.

12. Revision in Early-Retirement Reductions. As part of this proposal, PERA is proposing to increase the PERA-P&F early retirement reduction from 0.1 percent for each month that the individual is under age 55 to 0.2 percent. This change will apply to individuals who become a PERA-P&F member after June 30, 2007, or by a former member who is reinstated after that date. The issue is whether that change should be part of this proposal. Except for a few reinstated members, it will have no impact for a few decades, since it will take most new employees that long to be eligible for early retirement. When it does begin to have an impact, that impact is partially in opposition to a presumed effort to encouraging individuals to apply for retirement benefits rather than disability benefits. Increasing the early retirement reduction factor will provide some cost savings to the plan, since all early retirements in this plan are subsidized, and the proposed change would reduce that subsidy. However, that change might discourage some injured individuals from selecting an early retirement benefit rather than applying for disability.
13. Removal of Military Duty Language. PERA is proposing to remove language (page 9, lines 28 to 30) which specified that the death of any PERA-P&F member on active military duty is considered to be a duty-related death for purposes of PERA-P&F survivor benefits. The issue is whether that removal is appropriate. The language in question had been added to PERA-P&F law through a 2005 Special Session provision retroactive to September 11, 2001, enabling the spouse of a St. Louis Park police officer to receive a surviving spouse benefit after the PERA-P&F member was killed in the Iraq conflict, after a marriage of less than one year. This provision passed in an Agricultural, Environment, and Natural Resources appropriations bill. The Commission did consider this St. Louis Park issue on a few occasions. The final Commission recommendation on that matter was to use a special law approach, to cap benefits from all sources (federal and state) at \$615,000 or less, to require St. Louis Park to cover the full cost of the PERA-P&F survivor annuity, and to terminate the survivor annuity upon remarriage. No action passed during the 2005 Regular Session on this matter. The provision which passed in the 2005 Special Session did not pass in a pension bill, and it differs significantly from the approach recommended by the Commission.
14. Disallowing Disability for Illegal Drug Use. Section 16 prohibits providing disability benefits if the disability is due to illegal drug use and the illegal activity has not stopped. The issue is whether this is the proper policy. The issue is raised because, although this provision has merit, this is new ground--no Minnesota public pension plan currently has a provision of this type. The Commission may wish to hear brief testimony on this matter.
15. Model for Related Actions in Other Plans. The issue is whether this proposal is suitable to act upon, given that it may serve as a model for addressing similar problems in MSRS public safety plans and quasi-public safety plans (State Patrol Retirement Plan and MSRS-Correctional).
16. Sufficient Need to Revise PERA Local Government Correctional Plan Provisions. The issue is whether there is sufficient need to revise PERA-Correctional as proposed in Sections 21 to 23. Unlike the revisions to PERA-P&F, those provisions do not change the benefits to be offered under the plan's disability provisions, but they do revise who is eligible for those benefits, because a more stringent definition of duty disability will be used to determine who qualifies for a duty disability rather than a "regular" (previously non-duty) disability. A duty disability will provide a higher amount than a regular disability for any individual with less than 25 years of service.

Arguments for making the changes are that PERA-P&F and PERA-Correctional are similar plans, and it would be reasonable to use similar definitions in the two plans to define disability groups. Another argument is that it is reasonable to take proactive action to ward off possible future problems in that plan. Arguments for not making the change are that employee groups may oppose these changes because fewer individuals will be classified as duty disabilitants rather than "regular" disabilitants, although the changes would not apply to any existing disabilitants, only those who become disabilitants after the effective date. Another argument for not acting at this time is that the current actuarial condition of the plan, which is presented below, does not indicate problems.

According to the 2006 actuarial report, the plan has a contribution sufficiency of 1.9 percent of payroll rather than a deficiency. Also, Table 1 in Attachment A indicates that the plan normal cost for disability in the 2006 actuarial valuation was 1.49 percent, and that amount has been stable or falling over time

rather than increasing, although that may be influenced by demographic changes in the plan coverage group. The plan normal cost, expressed as a percentage of payroll is low relative to other public safety plans, but that comparison can be misleading. The normal cost as a percentage of payroll is a function of the level of benefits offered by a plan. PERA-Correctional uses a lower accrual rate to compute benefits, leading to a lower normal cost as a percent of payroll for disability, even if the probability of disability in two public safety plans were identical. For example, the PERA-P&F disability benefits are based on an accrual rate of 3.0 percent of the high-five average salary per year of service. In contrast, the PERA-Correctional disability provisions are based on an accrual rate of 1.9 percent. If the probability of becoming a disabilitant in the two plans was identical, PERA-P&F would have a much higher disability normal cost as a percentage of covered payroll.

PERA-Correctional 2006		
<u>Membership</u>		
Active Members		3,531
Service Retirees		144
Disabilitants		70
Survivors		9
Deferred Retirees		1,100
Nonvested Former Members		<u>1,086</u>
Total Membership		5,940
<u>Funded Status</u>		
Accrued Liability		\$133,305,790
Current Assets		<u>\$125,775,917</u>
Unfunded Accrued Liability		\$7,529,873
Funding Ratio	94.35%	
<u>Financing Requirements</u>		
Covered Payroll		\$141,083,054
Benefits Payable		\$1,341,435
Normal Cost	12.14%	\$17,134,103
Administrative Expenses	<u>0.14%</u>	<u>\$197,516</u>
Normal Cost & Expense	12.28%	\$17,331,619
Normal Cost & Expense	12.28%	\$17,331,619
Amortization	<u>0.39%</u>	<u>\$550,224</u>
Total Requirements	12.68%	\$17,881,843
Employee Contributions	5.83%	\$8,225,142
Employer Contributions	8.75%	\$12,344,767
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	14.58%	\$20,569,909
Total Requirements	12.68%	\$17,881,843
Total Contributions	<u>14.58%</u>	<u>\$20,569,909</u>
Deficiency (Surplus)	(1.90%)	(\$2,688,066)
Amortization Target Date	2023	
Actuary	Segal	

Potential Amendments for Commission Consideration

H0125-4A is a technical amendment, clarifying that disabilitant-to-retirement transfer requirements apply only to disability benefits granted after June 30, 2007, clarifying a title in a disability survivor benefit provision being revised to apply only in pre-July 1, 2007, disability situations, and making other changes of a technical nature.

H0125-5A revises transfer-to-normal retirement dates from age 55 or the five-year anniversary of the disability, whichever is later, to age 65 or the five-year anniversary of the disability, whichever is later. This amendment could be used if the Commission believes that PERA and MSRS are in error regarding the procedure needed for Age Discrimination Act (ADA) compliance.

H0125-6A revises the proposal to apply only to new employees, rather than to all disabilitants whose effective date of disability is after June 30, 2007.

H0125-7A removes the PERA-Correctional provisions from the proposal.

H0125-8A creates two additional categories of PERA-P&F disabilitants. The first group is composed of those who are sufficiently disabled to qualify under the total and permanent standard generally applicable in general employee plans rather than the position-specific standard used in public employee plans, and

who are duty-disabled as defined in the proposed law. The second group is comparable, except that this group qualifies for regular disability because the injury or illness did not occur while at work or as a result of work, or occurred while at work but not in the course of performing hazardous duties. Individuals in these two groups would receive the same benefits as in current law for duty disabilitants and non-duty disabilitants (rather than the lesser capped benefit generally proposed) and these individuals would retain disability status indefinitely rather than transferring to normal retirement. However, these individuals would need to elect joint-and-survivor optional annuities to provide spousal coverage.

If the Commission desired, it could further increase the benefits to this group by verbal amendment to the H0125-8A amendment. The accrual rate in these plans is 3.0 percent per year. The 60 percent of average salary benefit on page 1, line 10, of the amendment is equivalent to a 20 year pension. One possibility is a 66 percent benefit, which would require changing "60" on page 1, line 10, to "66" and also changing "20" (years) on page 1, line 12, to "22". To change the regular disability benefit provided on page 2 of this amendment, the Commission would need to change "45" on page 2, line 13, and "15" on page 2, line 15.

If the Commission wished to not include, in the proposed treatment under amendment H0125-8A, regular disabilitants whose disability is due to leisure time activity rather than an injury or illness that occurred at work, the Commission could use a verbal amendment: page 2, line 11, after "46," insert "that occurred while on duty and." The result is that post-June 30, 2007, PERA-P&F disabilitants who are severely disabled due to leisure activities or disease not related to employment would receive the capped benefit proposed in the delete-everything amendment, rather than the more generous benefit otherwise provided in H0125-8A to longer-term totally disabled employees.

H0125-9A would create different benefit treatment for those who qualify for regular disability under PERA-P&F's disability standard. Those who qualify for regular disability which is related to or occurred while at work would receive the benefit specified for this group in the delete-everything amendment, 45 percent of average salary. Those who qualify for regular disability which did not occur while on duty receive a benefit to be specified by the Commission, presumably a lesser benefit than the first group.

H0125-10A charges the specific employer for the cost of any regular disability benefit provided by PERA-P&F. This amendment would remove cost shifting related to regular disabilities by requiring the employer to cover the cost of regular disability benefits. In essence, the plan would act as a single employer plan rather than as a multiple employer plan for regular disabilities. An argument for applying this treatment to regular disability benefits is that this action would encourage employers to reduce the number of these disabilities by providing other employment within the capabilities of an injured employee, and by providing a safer work environment. If the Commission wishes to further restrict this to only regular disabilities that occur while at work, the Commission could use a verbal amendment, inserting after "disability" on page 1, line 7, ", that occurred while at work for that employer or as a result of that employment,".

The Commission might also wish to consider applying this treatment just to duty disabilities. That could be accomplished by deleting "regular" on page 1, line 7, and inserting "duty". To make all new PERA-P&F disabilities subject to this treatment, the Commission could delete "regular disability" on page 1, line 7, and insert "disability benefit under this section". If employers were responsible for paying for the full cost of all disabilities, the cost of funding the PERA-P&F disability program, for purposes of determining required PERA-P&F contributions, would eventually approach zero.

The Commission may also wish to make the employer pay for some fraction of the benefit rather than the entire disability benefit. This could be done by inserting before "the" on page 1, line 7, "..... percent of" with the percentage to be determined by the Commission. This verbal amendment could be used with other verbal amendments suggested in the previous paragraph. By making the employer pay directly for some or all disability benefits related to the employer, that may create sufficient incentive to minimize applications for PERA-P&F disability benefits while not creating an unacceptable burden on any given employer.

H0125-11A removes the early retirement reduction provision (Section 8 on pages 2 and 3) from the proposal.

H0125-12A leaves the early retirement reduction provision in the proposal, but modifies it so that a 0.1 percent per month reduction would remain in effect for individuals who qualify for PERA-P&F disability, while others would face the proposed 0.2 percent reduction.

H0125-13A reinstates the stricken language which specified that any PERA-P&F member who dies while on active military duty is a line-of-duty death for purposes of PERA-P&F surviving spouse benefits.

H0125-14A is an alternative delete-everything amendment which retains the proposed changes in definitions but eliminates all changes in benefit provisions beyond using the new definitions to determine benefit eligibility. Thus, for example, the duty disabilitant benefit remains unchanged, except that fewer individuals will qualify for that benefit because of the new requirement that the injury or illness must occur while performing duties specific to protecting the property and personal safety of others and that present inherent dangers specific to the positions covered by PERA-P&F.

Attachment A

Background Information on PERA-P&F Disability Benefits and Disability Issues

- a. Nature of Current Public Safety Employee Casualty Coverage. The package of disability-related benefits offered to PERA-P&F members is as follows:
1. PERA-P&F Disability Benefit. Due to the hazardous nature of public safety employment, public safety plans provide generous disability benefits. In PERA-P&F, a disabilitant receives the retirement benefit to which the individual would be eligible, but without any reduction due to early retirement. The PERA-P&F benefit is 3.0 percent of the high-five average salary for each year of service. Thus, a member going on disability after 30 years of service would receive 90 percent of the high-five average salary as the annual benefit, while a member with 25 years of service would receive 75 percent of the high-five average salary. PERA-P&F disability benefits are either “duty-related” disability benefits or “non-duty-related” disability benefits. The basic disability standard for PERA-P&F is the inability, physically or mentally, to perform the duties of a police officer, firefighter, or paramedic that is expected to last for a period of at least one year. For a duty disability, the physical or mental inability must be the direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty. For a non-duty disability, the physical or mental inability results from sickness or injury while not on duty as a police officer, firefighter, or paramedic. Duty disability benefit coverage has no minimum period of service vesting requirement and non-duty disability benefit coverage has a one-year minimum period of service vesting requirement. For those disabilitants with minimal accrued service credit, the minimum line-of-duty disability is equivalent to a 20-year service pension, while the minimum non-line-of-duty disability is equivalent to a 15-year service pension.
 2. Automatic Survivor Coverage. PERA-P&F disability benefits include automatic surviving spouse coverage. If an individual were to retire under the PERA-P&F plan rather than become a PERA-P&F disabilitant, he or she would need to take a reduction in the retirement benefit to provide joint-and-survivor coverage, if that coverage is desired. In contrast, survivor coverage comparable to that provided under a joint-and-survivor annuity is provided automatically to the spouse of disabilitants without charge to the disabilitant.
 3. Employer-Paid Health Care for Public Safety Plan Disabilitants and Their Families. Public safety plan duty-related disabilitants receive continued employer-paid health care. The law providing this treatment passed in 1999 (coded as Minnesota Statutes, Section 299A.465) and requires the employer to continue to pay the employer contribution portion of health care insurance costs to age 65 if the disability is duty-related.
- b. PERA-P&F Disability Benefit Utilization-Problem in General. In the last few years Public Employees Retirement Association (PERA) has become increasingly concerned about significant increases in Public Employees Police and Fire Retirement Plan (PERA-P&F) disability applications, which has lead to a sizable increase in the number of PERA-P&F disabilitants. In the broadest terms, this increased use of disability stems from the ease of qualifying for these benefits in PERA-P&F, and in public safety plans in general, and the strong financial incentive to draw benefits as a PERA-P&F disabilitant prior to age 65 rather than draw benefits as a service retiree.

Compared to the process of qualifying for a disability benefit in a general employee retirement plan, it is fairly easy to qualify for disability benefits in the PERA-P&F plan because disability is based on the ability to perform in a specific occupation, and because PERA has not had a disability benefit application and review process specifically designed for a public safety plan. In PERA-P&F and other public safety plans, an individual who can no longer perform the duties to which the individual had been assigned qualifies for disability. In contrast, the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and other general employee plans use a far more restrictive standard, which is that an individual must be unable to engage in any gainful employment to qualify for benefits.

Recent PERA-P&F experience studies show a large number of PERA-P&F disability applications, considerably higher than expected, by members approaching the early retirement age for the plan (age 50) and by those approaching the plan’s normal retirement age (age 55). Some of these applications are likely due to the strong financial incentive provided by law to seek disability benefits rather than retirement benefits.

- c. The Age Discrimination in Employment Compliance Issue: When to End Disability Eligibility. In 1993, to address federal law age discrimination compliance concerns, MSRS recommended that the last eligible age for disability in public safety plans should be extended from age 55 to age 65. PERA took a different approach, and recommended that the PERA-P&F provision which required transfer at age 55 should be repealed. The 1993 requested law changes were adopted based on the contention by the retirement plans that the changes were required by federal law. Currently, there is some debate about whether some of the age discrimination compliance revisions enacted in 1993 were actually needed in public safety plans. Because the normal retirement age for public safety retirement plans is age 55, not 65 or later as in a general employee retirement plan, there may actually have been no need to allow access by public safety plan members to disability benefits after age 55.

Continuing disability benefits after age 55 created additional costs for PERA-P&F and for other public safety plans. A PERA-P&F member at age 55 or later who retires would pay for any desired surviving spouse coverage by taking a joint-and-survivor annuity, with the necessary reduction in pay for that coverage. The comparable member who is age 55 or older, but is receiving a disability benefit rather than a retirement benefit, receives a higher net benefit than the retiree because the disabilitant has no reduction for the spousal coverage. That cost is shifted to the plan. The disabilitant, if the disability is line-of-duty, also receives health care coverage to age 65, with the employer covering the employer contributions for that coverage. The comparable retiree would have to pay for his or her own health care coverage, which can be very expensive.

In 2006 (Laws 2006, Chapter 271, Article 4), eligibility for a PERA-P&F disability benefit was generally limited to ages before eligibility for a normal retirement annuity.

- d. Cost of Retirement Plan Disability Provisions. The normal cost of plan disability benefit provisions as presented in the plan actuarial reports. As an indication of cost during the 1990s, data for 1990 and 1995 is provided in Table 1. The last column shows the normal cost as indicated in the most recent actuarial valuation. Three general employee plans are shown (MSRS-General, PERA-General, and the Teachers Retirement Association (TRA)) and two public safety plans, the State Patrol Retirement Plan and PERA-P&F. For the general employee plans, the normal cost of disability benefit coverage is generally less than one-half of one percent of payroll. For the quasi-public safety/correctional employee plans, the normal cost of disability benefit coverage approaches that of public safety plan disability coverage. The public safety plan disability normal cost is much higher, currently over 2.3 percent of payroll in the State Patrol Plan, and in excess of 3.4 percent of payroll in PERA-P&F. The PERA-P&F disability normal cost has approximately doubled as a percentage of payroll since 1990, based on the annual actuarial report results. As noted below under recent PERA-P&F experience, this increase could be a considerable understatement.

Table 1

Normal Cost of Disability Benefits
Expressed as Percentage of Covered Payroll

	1990	1995	2003	2004	2005	2006
PERA-General	0.30%	0.49%	0.37%	0.34%	0.35%	0.36%
MSRS-General	0.25%	0.27%	0.42%	0.45%	0.43%	0.42%
TRA	0.47%	0.62%	0.21%	0.18%	0.19%	0.21%
PERA-P&F	1.70%	2.12%	2.26%	3.50%	3.42%	3.42%
State Patrol	1.84%	2.39%	2.43%	2.50%	2.50%	2.34%
MSRS-Correctional	0.21%	0.24%	1.25%	1.61%	1.60%	3.06%
PERA-Correctional	n/a	n/a	1.86%	1.54%	1.53%	1.49%

Source: Plan actuarial valuation reports for identified years

- e. Recent PERA-P&F Disability Experience. In recent years, in part because of the attractive package of benefits provided to PERA-P&F disabilitants, particularly if the disability is duty-related, the number of disabilitants has been much higher than expected under the assumptions used in actuarial valuations. Thus, the normal cost of PERA-P&F disability coverage (and possibly the State Patrol Plan) as indicated in the actuarial valuations could be considerably understated. The higher-than-expected use of disability has held for all ages other than the earliest ages. Table 2, from an experience study report dated December 10, 2002, by PERA's retained actuarial firm, Mercer Human Resource Consulting, shows the PERA-P&F disabilities that occurred between 1997 and 2001 compared to the expected numbers given the assumptions used in the actuarial work. At lower ages there were fewer disabilities than expected, but from age 35 and older, there were considerably more than expected. The highest spikes are at age 45 to 49, just prior to the earliest service retirement age for the plan (age 50), and particularly the age group 50 to 54, (just prior to age 55, the normal

retirement age for this plan) where disabilities were 283 percent of the expected amount. For the 50 to 54 age group, disabilities were 178 percent of those expected in 1997-1998, 161 percent in 1998-1999, 375 percent in 1999-2000, and 391 percent of those expected in 2000-2001. There were also 28 disabilitants occurring at age 55, the PERA-P&F normal retirement age, or after. Under pre-1993 law and now under the 2006 law change, this would not occur because these individuals would be treated as retirees.

Table 2

PERA-P&F Plan Disabilities
Comparison of Actual to Expected 1997-2001

Age	Actual	Expected	Actual/Expected
20-24	0	1.25	0%
25-29	1	7.65	13%
30-34	10	11.87	84%
35-39	17	14.93	114%
40-44	31	17.75	175%
45-49	48	26.20	183%
50-54	91	32.11	283%
55-59	21	14.05	149%
60-64	5	0.00	--
65+	2	0.00	--
Total	226	125.81	180%

Attachment B

Background Information on Federal Income Tax Treatment of Disability Benefit Coverage

Section 61(a) of the federal Internal Revenue Code provides that, except as otherwise provided by law, gross income means all income from whatever source derived, including compensation for services.

Section 104(a)(1) of the federal Internal Revenue Code provides that gross income does not include amounts received under workers' compensation acts as compensation for personal injuries or sickness. Specifically, Section 104(a)(1) of the federal Internal Revenue Code provides the following:

Section 104. Compensation for injuries or sickness

(a) In General

Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include—

- (1) amounts received under workmen's compensation acts as compensation for personal injuries or sickness;

Section 1.104-1(b) of the federal Income Tax Regulations states that section 104(a)(1) of the federal Internal Revenue Code excludes from gross income amounts received by an employee under a workers' compensation act or under a statute in the nature of a workers' compensation act that provides compensation to the employee for personal injury or sickness incurred in the course of employment. Section 104(a)(1) also applies to compensation which is paid under a workers' compensation act to the survivor or survivors of a deceased employee. Section 104(a)(1) does not apply to a retirement pension or annuity to the extent it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by an occupational injury or sickness. Section 104(a)(1) also does not apply to amounts which are received as compensation for a non-occupational injury or sickness nor to amounts received as compensation for an occupational injury or sickness to the extent that they are in excess of the amount provided in the applicable workers' compensation act or acts.

Thus, if the public retirement plan has a duty- or occupational-based disability benefit and are in the nature of workers' compensation, the duty- or occupational-based disability benefits are excludable from the gross income of the recipients under section 104(a)(1) of the federal Internal Revenue Code to the extent that the benefit amount is not determined by reference to the disabilitant's age, length of service credit, or prior contributions.

The federal Internal Revenue Code, Section 104(a)(1), disability income exclusion replaced the pre-1977 "sick pay" provisions and is more restrictive than the pre-1977 law.

1.1 moves to amend H.F. No. 125; S.F. No. 84 as follows:

1.2 Delete everything after the enacting clause and insert:

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

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

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

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

1.15 Subd. 41. **Duty disability.** "Duty disability," physical or psychological, means a
1.16 disabling condition that is expected to prevent a member, for a period of not less than 12
1.17 months, from performing the normal duties of the position held by a person who is a
1.18 member of the public employees police and fire plan, and that is the direct result of an
1.19 injury incurred during, or a disease arising out of, the performance of normal duties or the
1.20 actual performance of less frequent duties, either of which are specific to protecting the
1.21 property and personal safety of others and that present inherent dangers that are specific to
1.22 the positions covered by the public employees police and fire plan.

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

2.1 Subd. 42. **Less frequent duties.** "Less frequent duties" means tasks designated in
2.2 the applicant's job description as either required from time to time or as assigned, but
2.3 which are not carried out as part of the normal routine of the applicant's job.

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

2.6 Subd. 43. **Line of duty death.** "Line of duty death" means a death that occurs while
2.7 performing normal or less frequent duties which are specific to protecting the property and
2.8 personal safety of others and that present inherent dangers that are specific to the positions
2.9 covered by the public employees police and fire plan.

2.10 Sec. 5. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.11 to read:

2.12 Subd. 44. **Normal duties.** "Normal duties" means specific tasks designated in the
2.13 applicant's job description and which the applicant performs on a day-to-day basis, but
2.14 do not include less frequent duties which may be requested to be done by the employer
2.15 from time to time.

2.16 Sec. 6. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.17 to read:

2.18 Subd. 45. **Not line of duty death.** For purposes of survivor benefits under the
2.19 public employees police and fire plan, a "not line of duty death" is any death not specified
2.20 under subdivision 43.

2.21 Sec. 7. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.22 to read:

2.23 Subd. 46. **Regular disability.** "Regular disability," physical or psychological,
2.24 means a disabling condition that is expected to prevent a member, for a period of not less
2.25 than 12 months, from performing the normal duties of the position held by a person who is
2.26 a member of the public employees police and fire plan, and which results from a disease or
2.27 an injury that arises from any activities while not at work, or while at work and performing
2.28 those normal or less frequent duties that do not present inherent dangers that are specific
2.29 to the occupations covered by the public employees police and fire plan.

2.30 Sec. 8. Minnesota Statutes 2006, section 353.651, subdivision 4, is amended to read:

2.31 Subd. 4. **Early retirement.** (a) A person who becomes a police and fire plan
2.32 member after June 30, 2007, or a former member who is reinstated as a member of the
2.33 plan after that date, who is at least 50 years of age with at least three years of allowable
2.34 service, upon termination of public service is entitled upon application to a retirement

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

3.3 (b) Upon termination of public service, any police officer or firefighter and fire
3.4 plan member who has become not specified in paragraph (a), upon attaining at least 50
3.5 years old and who has of age with at least three years of allowable service is entitled
3.6 upon application to a retirement annuity equal to the normal annuity calculated under
3.7 subdivision 3, reduced by one-tenth of one percent for each month that the member is
3.8 under age 55 at the time of retirement.

3.9 Sec. 9. Minnesota Statutes 2006, section 353.656, subdivision 1, is amended to read:

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

3.12 ~~(1) has not met the requirements for a retirement annuity under section 353.651,~~
3.13 ~~subdivision 1, or~~

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

3.23 ~~(b) The benefits must be in an amount equal to 60 percent of the "average salary" as~~
3.24 ~~defined in section 353.01, subdivision 17a, plus an additional percent specified in section~~
3.25 ~~356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.~~

3.26 (b) To be eligible for a benefit under paragraph (a), the member must have:

3.27 (1) not met the requirements for a retirement annuity under section 353.651,
3.28 subdivision 1; or

3.29 (2) met the requirements under that subdivision, but does not have at least 20 years
3.30 of allowable service credit.

3.31 (c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a
3.32 period of 60 months from the disability benefit accrual date and at the end of that period
3.33 is subject to provisions of subdivision 5a.

3.34 (d) If the disability under this subdivision occurs before the member has at least five
3.35 years of allowable service credit in the police and fire plan, the disability benefit must be

4.1 computed on the "average salary" from which deductions were made for contribution to
4.2 the police and fire fund.

4.3 Sec. 10. Minnesota Statutes 2006, section 353.656, subdivision 1a, is amended to read:

4.4 Subd. 1a. **Optional annuity election.** (a) A disabled member of the police and fire
4.5 fund may elect to receive the normal disability benefit or an actuarial equivalent optional
4.6 annuity ~~as provided in section 353.30, subdivision 3.~~ If the election of an actuarial
4.7 equivalent optional annuity may be is made prior to commencement of payment of the
4.8 disability benefit or as specified under subdivision 6a., the optional annuity shall begin to
4.9 accrue on the same date as provided for the disability benefit covering only the disabilitant
4.10 would have accrued.

4.11 (b) If an election of an optional annuity is not made prior to commencement of the
4.12 disability benefit, the disabilitant can elect an optional annuity:

4.13 (1) within 90 days before normal retirement age;

4.14 (2) upon application to convert to an early retirement annuity, if electing to convert
4.15 to an early retirement annuity prior to normal retirement age; or

4.16 (3) within 90 days before the expiration of the 60-month period for which a disability
4.17 benefit is paid, if the disability benefit is payable because the disabled member did not
4.18 have at least 20 years of allowable service at normal retirement age.

4.19 (c) If the person a disabled member who is not the spouse of the member is
4.20 has named as beneficiary of the a joint and survivor optional annuity; beneficiary dies
4.21 before the disability benefit ceases and is recalculated under subdivision 5a, the person
4.22 is beneficiary eligible to receive the joint and survivor annuity only if the spouse, on
4.23 may elect to have the disability application form prescribed by annuity converted at the
4.24 executive director, permanently waives times designated in paragraph (b), clause (1),
4.25 (2), or (3), whichever allows for the surviving spouse benefits under section 353.657,
4.26 subdivisions 2 and 2a earliest payment of a higher joint and survivor annuity option
4.27 resulting from recalculation under subdivision 5a, paragraph (e).

4.28 (d) A disabled member may name a person other than the spouse as beneficiary
4.29 of a joint and survivor annuity only if the spouse of the disabled member refuses to
4.30 permanently waive the waives surviving spouse coverage, the selection of a person other
4.31 than the spouse of the member as a joint annuitant is invalid on the disability application
4.32 form prescribed by the executive director.

4.33 ~~(2)~~ (e) If the spouse of the member permanently waives survivor coverage, the
4.34 dependent child or children, if any, continue to be eligible for survivor dependent child
4.35 benefits, including the minimum benefit under section 353.657, subdivision 3., and the
4.36 designated optional annuity beneficiary may draw the monthly benefit; however, the

5.1 ~~amount payable to the dependent child or children and joint annuitant must not exceed~~
 5.2 ~~the 70 percent maximum family benefit under section 353.657, subdivision 3. If the~~
 5.3 ~~maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount~~
 5.4 ~~necessary so that the total family benefit does not exceed the 70 percent maximum family~~
 5.5 ~~benefit amount.~~

5.6 ~~(3) If the spouse is named as the beneficiary of the joint and survivor optional~~
 5.7 ~~annuity, the spouse may draw the monthly benefit; however, the amount payable to~~
 5.8 ~~the dependent child or children and the joint annuitant must not exceed the 70 percent~~
 5.9 ~~maximum family benefit under section 353.657, subdivision 3. If the maximum is~~
 5.10 ~~exceeded, each dependent child will receive ten percent of the member's specified average~~
 5.11 ~~monthly salary, and the benefit to the joint annuitant must be reduced to the amount~~
 5.12 ~~necessary so that the total family benefit does not exceed the 70 percent maximum family~~
 5.13 ~~benefit amount. The joint and survivor optional annuity must be restored to the surviving~~
 5.14 ~~spouse, plus applicable postretirement adjustments under section 356.41, as the dependent~~
 5.15 ~~child or children become no longer dependent under section 353.01, subdivision 15.~~

5.16 (f) Any optional annuity under this subdivision, plus dependent child benefits, if
 5.17 applicable, are subject to the maximum and minimum family benefit amounts specified in
 5.18 section 353.657, subdivision 3a.

5.19 Sec. 11. Minnesota Statutes 2006, section 353.656, subdivision 3, is amended to read:

5.20 Subd. 3. **Nonduty Regular disability benefit.** (a) Any A member of the police
 5.21 and fire plan who:

5.22 ~~(1) has not met the requirements for a retirement annuity under section 353.651,~~
 5.23 ~~subdivision 1, or~~

5.24 ~~(2) has met the requirements for a retirement annuity under section 353.651,~~
 5.25 ~~subdivision 1, but who does not have 15 years of credited service, and who becomes~~
 5.26 ~~disabled after not less than one year of allowable service because of sickness or injury~~
 5.27 ~~occurring while not on duty as a police officer, firefighter, or paramedic as defined under~~
 5.28 ~~section 353.64, subdivision 10, and by reason of that sickness or injury the member has~~
 5.29 ~~been or is expected to be unable to perform the duties as a police officer, firefighter, or~~
 5.30 ~~paramedic as defined under section 353.64, subdivision 10, for a period of at least one~~
 5.31 ~~year, is entitled to~~ is determined to qualify for a regular disability benefit as defined in
 5.32 section 353.01, subdivision 46, shall receive a disability benefit in an amount equal to 45
 5.33 percent of the average salary as defined in section 353.01, subdivision 17a.

5.34 (b) ~~The benefit must be paid in the same manner as if the benefit were paid under~~
 5.35 ~~section 353.651. If a disability under this subdivision occurs after one but in less than 15~~
 5.36 ~~years of allowable service, the disability benefit must be the same as though the member~~

6.1 ~~had at least 15 years service.~~ To be eligible for a benefit under paragraph (a), the member
6.2 must have at least one year of allowable service credit and have:

6.3 (1) not met the requirements for a retirement annuity under section 353.651,
6.4 subdivision 1, or

6.5 (2) met the requirements under that subdivision, but does not have at least 15 years
6.6 of allowable service credit.

6.7 (c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a
6.8 period of 60 months from the disability benefit accrual date and at the end of that period
6.9 is subject to provisions of subdivision 5a.

6.10 (d) For a member who is employed as a full-time firefighter by the Department of
6.11 Military Affairs of the state of Minnesota, allowable service as a full-time state Military
6.12 Affairs Department firefighter credited by the Minnesota State Retirement System may be
6.13 used in meeting the minimum allowable service requirement of this subdivision.

6.14 Sec. 12. Minnesota Statutes 2006, section 353.656, subdivision 4, is amended to read:

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

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

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

6.27 (2) 125 percent of the base salary currently paid by the employing governmental
6.28 subdivision for similar positions.

6.29 (c) The disability benefit must be reduced by one dollar for each three dollars by
6.30 which the total amount of the current disability benefit, any workers' compensation
6.31 benefits if applicable, and actual earnings exceed the greater disabilitant reemployment
6.32 earnings limit. In no event may the disability benefit as adjusted under this subdivision
6.33 exceed the disability benefit originally allowed.

6.34 Sec. 13. Minnesota Statutes 2006, section 353.656, subdivision 5a, is amended to read:

6.35 Subd. 5a. **Cessation of disability benefit.** (a) The association shall cease the
6.36 payment of an ~~in-line-of-duty or non-duty~~ any disability benefit the first of the month

- 1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
- 1.2 No. 125; S.F. No. 84, as follows:
- 1.3 Page 1, line 16, delete "disabling"
- 1.4 Page 2, line 7, after "performing" insert "or as a direct result of performing"
- 1.5 Page 2, line 24, delete "disabling"
- 1.6 Page 5, line 31, delete "is determined to qualify" and insert "qualifies"
- 1.7 Page 5, line 32, after "benefit" insert ", after filing a valid application,"
- 1.8 Page 7, line 3, after "plan" insert ", that was granted under laws in effect after June
- 1.9 30, 2007,"
- 1.10 Page 7, line 33, after "benefits" insert "**for pre-July 1, 2007, disabilitants**"
- 1.11 Page 12, line 28, delete "which"
- 1.12 Page 12, line 29, delete "disabling"
- 1.13 Page 13, line 8, delete "which"
- 1.14 Page 13, line 9, delete "disabling"

- 1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
- 1.2 No. 125; S.F. No. 84, as follows:
- 1.3 Page 3, delete lines 26 to 33
- 1.4 Page 3, line 34, delete "(d)" and insert "(b)"
- 1.5 Page 4, line 13, delete "normal retirement" and after "age" insert "65, or the five-year
- 1.6 anniversary of the effective date of the disability benefit, whichever is later" and after
- 1.7 the semicolon insert "or"
- 1.8 Page 4, line 15, delete "; or"
- 1.9 Page 4, delete lines 16 and 17
- 1.10 Page 4, line 18, delete everything before the period
- 1.11 Page 4, line 24, delete the second comma and insert "or"
- 1.12 Page 4, line 25, delete ", or (3)"
- 1.13 Page 6, line 2, delete "and have:"
- 1.14 Page 6, delete lines 3 to 8
- 1.15 Page 6, line 9, delete everything before the period
- 1.16 Page 6, line 10, delete "(d)" and insert "(c)"
- 1.17 Page 7, line 5, delete "normal retirement" and after "age" insert "65, or the five-year
- 1.18 anniversary of the effective date of the disability benefit, whichever is later" and after
- 1.19 the semicolon insert "or"
- 1.20 Page 7, delete lines 6 to 8
- 1.21 Page 7, line 9, delete "(3)" and insert "(2)"
- 1.22 Page 7, line 21, delete "normal retirement" and after "age" insert "65, or the five-year
- 1.23 anniversary of the effective date of the disability benefit, whichever is later"
- 1.24 Page 7, line 36, delete "normal retirement"
- 1.25 Page 8, line 1, delete the new language
- 1.26 Page 8, line 2, delete "(b)" and insert "65"
- 1.27 Page 8, line 9, strike everything after "at"

- 2.1 Page 8, line 10, strike everything before the second comma and insert "age 65"
- 2.2 Page 8, line 15, reinstate the stricken "of" delete the new language
- 2.3 Page 8, line 16, delete "as"
- 2.4 Page 8, line 17, delete everything before ", or" and insert "65"
- 2.5 Page 8, line 20, strike "the" and strike everything after "age"
- 2.6 Page 8, line 21, strike "subdivision 1" and insert "65"

1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
1.2 No. 125; S.F. No. 84, as follows:

1.3 Page 1, line 15, before "Duty" insert "(a) For individuals who become plan
1.4 members after June 30, 2007,"

1.5 Page 1, after line 22, insert:

1.6 "(b) For individuals who become plan members before July 1, 2007, "duty
1.7 disability," physical or psychological, means a condition that is expected to prevent a
1.8 member, for a period of not less than 12 months, from performing duties as a police
1.9 officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, that is
1.10 the direct result of an injury, sickness, or other disability, incurred during, or a disease
1.11 arising out of, the performance of any act of duty."

1.12 Page 2, line 6, before "Line" insert "(a) For purposes of public employees police
1.13 and fire plan members who become members after June 30, 2007,"

1.14 Page 2, line 7, after "performing" insert "or as a direct result of performing"

1.15 Page 2, after line 9, insert:

1.16 "(b) For purposes of public employees police and fire plan members who become
1.17 members before July 1, 2007, "line of duty death" means a death that occurs while
1.18 performing or as a direct result of performing an act of duty."

1.19 Page 2, line 23, before "Regular" insert "(a) For individuals who become plan
1.20 members after June 30, 2007,"

1.21 Page 2, after line 29, insert:

1.22 "(b) For individuals who become plan members before July 1, 2007, "regular
1.23 disability," physical or psychological, means a condition that is expected to prevent a
1.24 member, for a period of not less than 12 months, from performing duties as a police
1.25 officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, due to
1.26 disease or an injury that arises from any activities while not on duty."

1.27 Page 3, line 22, after "41" insert ", paragraph (a)"

2.1 Page 3, line 25, after the period insert "If the member qualifies for duty disability
 2.2 as defined in section 353.01, subdivision 41, paragraph (b), the disabilitant shall receive
 2.3 disability benefits during the period of the disability in an amount equal to 60 percent of
 2.4 the average salary plus an additional percent specified in section 356.315, subdivision 6,
 2.5 of that average salary for each year of service in excess of 20 years."

2.6 Page 3, line 31, before "If" insert "If the disability benefit is for a duty disability as
 2.7 defined in section 353.01, subdivision 41, paragraph (a), and"

2.8 Page 4, line 4, after "election" insert ", post June 30, 2007, disabilitants"

2.9 Page 5, after line 18, insert:

2.10 "(g) This subdivision applies to disabilitants with an effective date of disability
 2.11 after June 30, 2007.

2.12 Sec. 11. Minnesota Statutes 2006, section 353.656, is amended by adding a subdivision
 2.13 to read:

2.14 Subd. 1b. **Optional annuity election, pre-July 1, 2007, disabilitants.** (a) This
 2.15 subdivision applies to pre-July 1, 2007, disabilitants.

2.16 (b) A disabled member of the police and fire fund may elect to receive the normal
 2.17 disability benefit or an optional annuity as provided in section 353.30, subdivision 3 . The
 2.18 election of an optional annuity may be made prior to commencement of payment of the
 2.19 disability benefit or as specified under subdivision 6a. The optional annuity shall begin to
 2.20 accrue on the same date as provided for the disability benefit.

2.21 (c) If the person who is not the spouse of the member is named as beneficiary of the
 2.22 joint and survivor optional annuity, the person is eligible to receive the annuity only if the
 2.23 spouse, on the disability application form prescribed by the executive director, permanently
 2.24 waives the surviving spouse benefits under section 353.657, subdivisions 2 and 2a. If the
 2.25 spouse of the member refuses to permanently waive the surviving spouse coverage, the
 2.26 selection of a person other than the spouse of the member as a joint annuitant is invalid.

2.27 (d) If the spouse of the member permanently waives survivor coverage, the
 2.28 dependent child or children, if any, continue to be eligible for survivor benefits, including
 2.29 the minimum benefit under section 353.657, subdivision 3. The designated optional
 2.30 annuity beneficiary may draw the monthly benefit; however, the amount payable to the
 2.31 dependent child or children and joint annuitant must not exceed the 70 percent maximum
 2.32 family benefit under section 353.657, subdivision 3 . If the maximum is exceeded, the
 2.33 benefit of the joint annuitant must be reduced to the amount necessary so that the total
 2.34 family benefit does not exceed the 70 percent maximum family benefit amount.

3.1 (e) Any optional annuity under this subdivision, plus dependent child benefits, if
3.2 applicable, are subject to the maximum and minimum family benefit amounts specified in
3.3 section 353.657, subdivision 3a."

3.4 Page 5, line 32, after "46" insert ", paragraph (a)"

3.5 Page 5, line 33, after the period insert "If the member qualifies for regular disability
3.6 as defined in section 353.01, subdivision 46, paragraph (b), the disabilitant shall receive
3.7 disability benefits during the period of the disability in an amount equal to 45 percent of
3.8 the average salary plus an additional percent specified in section 356.315, subdivision 6,
3.9 of that average salary for each year of service in excess of 15 years."

3.10 Page 6, line 7, before "If" insert "If the disability benefit is for a regular disability as
3.11 defined in section 353.01, subdivision 46, paragraph (a), and"

3.12 Page 9, line 8, after "disability" insert "with a disability effective date after June
3.13 30, 2007,"

3.14 Page 9, line 27, after "service" insert "if the deceased first became a member after
3.15 June 30, 2007, or if the deceased was married to the survivor spouse for less than one year
3.16 if the deceased first became a member before July 1, 2007"

3.17 Page 12, line 12, delete everything after "or"

3.18 Page 12, line 13, delete everything before "before" and insert "if the deceased
3.19 became a member of the plan"

3.20 Page 12, line 20, delete everything after "or"

3.21 Page 12, line 21, delete "that accrued" and insert "if the deceased became a member
3.22 of the plan"

3.23 Page 12, line 28, before ""Duty"" insert "(a) For individuals who become plan
3.24 members after June 30, 2007,"

3.25 Page 12, after line 35, insert:

3.26 "(b) For individuals who become plan members before July 1, 2007, "duty
3.27 disability," physical or psychological, means a condition that is expected to prevent a
3.28 member, for a period of not less than 12 months, from performing duties of a local
3.29 government correctional service employee as defined in section 353E.02, that is a direct
3.30 result of an injury, sickness, or other disability that is medically determinable, that was
3.31 incurred in or arose out of any act of duty."

3.32 Page 13, line 8, before ""Regular"" insert "(a) For individuals who became plan
3.33 members after June 30, 2007,"

3.34 Page 13, after line 14, insert:

3.35 "(b) For individuals who become plan members before July 1, 2007, "regular
3.36 disability," physical or psychological, means a condition that is expected to prevent a

4.1 member, for a period of not less than 12 months, from performing the duties of a local
4.2 government correctional service employee as defined in section 353E.02, and that results
4.3 from a disease or an injury that is medically determinable and that occurs or arises from
4.4 activities while not engaged in covered employment."

4.5 Page 14, line 4, delete "(a)" and delete "23" and insert "24"

4.6 Page 14, delete lines 5 to 8

4.7 Renumber the sections in sequence and correct the internal references

4.8 Amend the title accordingly

- 1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
- 1.2 No. 125; S.F. No. 84, as follows:
- 1.3 Pages 12 to 14, delete sections 21, 22, and 23
- 1.4 Page 14, line 4, delete "23" and insert "20"
- 1.5 Page 14, line 5, delete ", 9" and insert "and 9" and delete ", and 21 to 23"
- 1.6 Renumber the sections in sequence and correct the internal references
- 1.7 Amend the title accordingly

1.1 moves to amend the delete-everything amendment, H01253A, to H.F.
1.2 No. 125; S.F. No. 84, as follows:

1.3 Page 4, after line 2, insert:

1.4 "Sec. 10. Minnesota Statutes 2006, section 353.656, is amended by adding a
1.5 subdivision to read:

1.6 Subd. 1b. Total and permanent duty disability; computation of benefits. (a) A
1.7 member of the police and fire plan whose effective date of disability is after June 30, 2007,
1.8 and whose disabling condition is determined to be a duty disability that is also a permanent
1.9 and total disability as defined in section 353.01, subdivision 19, shall receive, for life,
1.10 disability benefits in an amount equal to 60 percent of the average salary as defined in
1.11 section 353.01, subdivision 17a, plus an additional percent specified in section 356.315,
1.12 subdivision 6, of that average salary for each year of service in excess of 20 years.

1.13 (b) A disability benefit payable under paragraph (a) is subject to eligibility review
1.14 under section 353.33, subdivision 6, unless the executive director receives a written
1.15 statement from the association's medical advisor that no improvement can be expected
1.16 in the member's disabling condition that was the basis for payment of the benefit under
1.17 paragraph (a). A member receiving a disability benefit under this subdivision who is
1.18 found to no longer be permanently and totally disabled as defined under section 353.01,
1.19 subdivision 19, but continues to meet the definition for receipt of a duty disability under
1.20 section 353.01, subdivision 41, is subject to subdivision 1 under this section upon written
1.21 notice from the association's medical advisor that the person is no longer considered
1.22 permanently and totally disabled as defined in section 353.01, subdivision 19.

1.23 (c) A member approved for disability benefits under this subdivision may elect
1.24 to receive a normal disability benefit or an actuarial equivalent optional annuity. If the
1.25 election of an actuarial equivalent optional annuity is not made prior to the commencement
1.26 of the disability benefit, an election must be made within 90 days prior to the member
1.27 attaining age 65 or having collected total and permanent disability benefits for 60 months,

2.1 whichever is later. No surviving spouse benefits are payable if the member dies during
 2.2 the period in which a normal total and permanent disability benefit is being paid. If a
 2.3 member receiving disability benefits who has dependent children dies, subdivision 6a,
 2.4 paragraph (c), applies."

2.5 Page 6, after line 13, insert:

2.6 "Sec. 13. Minnesota Statutes 2006, section 353.656, is amended by adding a
 2.7 subdivision to read:

2.8 Subd. 3a. **Total and permanent regular disability; computation of benefits.** (a)

2.9 A member of the police and fire plan whose effective date of disability is after June 30,
 2.10 2007, and whose disabling condition is determined to be a regular disability under section
 2.11 353.01, subdivision 46, that is also a permanent and total disability as defined in section
 2.12 353.01, subdivision 19, shall receive, for life, disability benefits in an amount equal to
 2.13 45 percent of the average salary as defined in section 353.01, subdivision 17a, plus an
 2.14 additional percent specified in section 356.315, subdivision 6, of that average salary for
 2.15 each year of service in excess of 15 years.

2.16 (b) A disability benefit payable under paragraph (a) is subject to eligibility review
 2.17 under section 353.33, subdivision 6, unless the executive director receives a written
 2.18 statement from the association's medical advisor that no improvement can be expected
 2.19 in the member's disabling condition that was the basis for payment of the benefit under
 2.20 paragraph (a). A member receiving a disability benefit under this subdivision who is
 2.21 found to no longer be permanently and totally disabled as defined under section 353.01,
 2.22 subdivision 19, but continues to meet the definition for receipt of a regular disability under
 2.23 section 353.01, subdivision 46, is subject to subdivision 3 under this section upon written
 2.24 notice from the association's medical advisor that the person is no longer considered
 2.25 permanently and totally disabled as defined in section 353.01, subdivision 19.

2.26 (c) A member approved for disability benefits under this subdivision may elect
 2.27 to receive a normal disability benefit or an actuarial equivalent optional annuity. If the
 2.28 election of an actuarial equivalent optional annuity is not made prior to the commencement
 2.29 of the disability benefit, an election must be made within 90 days prior to the member
 2.30 attaining age 65 or having collected disability benefits for 60 months, whichever is later.
 2.31 No surviving spouse benefits are payable if the member dies during the period in which
 2.32 a normal total and permanent disability benefit is being paid. If a member receiving
 2.33 disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies."

2.34 Page 7, line 3, after "plan" insert ", other than a disability benefit paid under
 2.35 subdivision 1b, paragraph (a), or subdivision 3a, paragraph (a),"

2.36 Renumber the sections in sequence and correct the internal references

3.1 Amend the title accordingly

1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
1.2 No. 125; S.F. No. 84, as follows:
1.3 Page 5, line 32, before "shall" insert ", and which occurred while on duty,"
1.4 Page 5, line 33, after the period insert "A member of the police and fire plan who
1.5 qualifies for a regular disability which is not duty-related shall receive a disability benefit
1.6 in an amount equal to ... percent of the average salary."

1.1 moves to amend the delete-everything amendment, H01253A, to H.F.
1.2 No. 125; S.F. No. 84, as follows:

1.3 Page 9, after line 18, insert:

1.4 "Sec. 17. Minnesota Statutes 2006, section 353.656, is amended by adding a
1.5 subdivision to read:

1.6 Subd. 14. **Employer payment of present value.** The employer of a disabled
1.7 employee who qualifies for a regular disability shall be responsible for the present value of
1.8 the benefit. The present value of the disability benefit shall be determined by the Public
1.9 Employees Retirement Association assuming no mortality, an 8.5 percent discount rate,
1.10 and 2.5 percent annual benefit increases, and using a procedure approved by the actuary
1.11 retained under section 356.214, for the period beginning with the disability accrual date
1.12 through the date the disabilitant would reach age 55. Payment shall be made to the
1.13 executive director of the Public Employees Retirement Association by the employer of the
1.14 disabled employee within 30 days after a request to the employer for payment. If payment
1.15 is not received by the due date, the executive director shall refer the payment failure to the
1.16 commissioner of the Department of Finance and the commissioner of the Department of
1.17 Revenue, who shall deduct the applicable amount, plus .708 percent interest compounded
1.18 monthly from the due date until the end of the month in which payment is received from
1.19 state aid payable to the employing unit, and the amount shall be transmitted to the Public
1.20 Employees Retirement Association executive director."

1.21 Renumber the sections in sequence and correct the internal references

1.22 Amend the title accordingly

- 1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
- 1.2 No. 125; S.F. No. 84, as follows:
- 1.3 Pages 2 and 3, delete section 8
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

1.1 moves to amend the delete-everything amendment, H01253A, to H.F.
1.2 No. 125; S.F. No. 84, as follows:

1.3 Pages 2 and 3, delete section 8 and insert:

1.4 "Sec. 8. Minnesota Statutes 2006, section 353.651, subdivision 4, is amended to read:

1.5 Subd. 4. **Early retirement.** (a) Any ~~police officer or firefighter~~ public employee
1.6 police and fire plan member who ~~has become~~:

1.7 (1) becomes disabled after June 30, 2007, as defined in section 353.01, subdivision
1.8 41 or 46;

1.9 (2) becomes at least 50 years old ~~and who~~;

1.10 (3) terminates public service; and

1.11 (4) has at least three years of allowable service,

1.12 is entitled upon application to a retirement annuity, in lieu of a disability benefit, equal to
1.13 the normal annuity calculated under subdivision 3, reduced by one-tenth of one percent
1.14 for each month that the member is under age 55 at the time of retirement.

1.15 (b) Any public employee police and fire plan member who meets all requirements
1.16 under paragraph (a) except for clause (1), is entitled upon application for a retirement
1.17 annuity specified in paragraph (a), except that the retirement annuity must be reduced by
1.18 two-tenths of one percent for each month that the member is under age 55 at the time
1.19 of retirement."

- 1.1 moves to amend the delete-everything amendment, H0125-3A, to H.F.
- 1.2 No. 125; S.F. No. 84, as follows:
- 1.3 Page 9, line 28, reinstate the stricken language and before "For" insert "(b)"
- 1.4 Page 9, lines 29 and 30, reinstate the stricken language
- 1.5 Page 9, line 31, delete "(b)" and insert "(c)"
- 1.6 Page 10, line 3, delete "(c)" and insert "(d)"

1.1 moves to amend H.F. No. 125; S.F. No. 84 as follows:

1.2 Delete everything after the enacting clause and insert:

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

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

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

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

1.15 Subd. 41. **Duty disability.** "Duty disability," physical or psychological, means a
1.16 condition that is expected to prevent a member, for a period of not less than 12 months,
1.17 from performing the normal duties of the position held by a person who is a member
1.18 of the public employees police and fire plan, and that is the direct result of an injury
1.19 incurred during, or a disease arising out of, the performance of normal duties or the actual
1.20 performance of less frequent duties, either of which are specific to protecting the property
1.21 and personal safety of others and that present inherent dangers that are specific to the
1.22 positions covered by the public employees police and fire plan.

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

2.1 Subd. 42. **Less frequent duties.** "Less frequent duties" means tasks designated in
2.2 the applicant's job description as either required from time to time or as assigned, but
2.3 which are not carried out as part of the normal routine of the applicant's job.

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

2.6 Subd. 43. **Line of duty death.** "Line of duty death" means a death that occurs while
2.7 performing normal or less frequent duties which are specific to protecting the property and
2.8 personal safety of others and that present inherent dangers that are specific to the positions
2.9 covered by the public employees police and fire plan.

2.10 Sec. 5. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.11 to read:

2.12 Subd. 44. **Normal duties.** "Normal duties" means specific tasks designated in the
2.13 applicant's job description and which the applicant performs on a day-to-day basis, but
2.14 do not include less frequent duties which may be requested to be done by the employer
2.15 from time to time.

2.16 Sec. 6. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.17 to read:

2.18 Subd. 45. **Not line of duty death.** For purposes of survivor benefits under the
2.19 public employees police and fire plan, a "not line of duty death" is any death not specified
2.20 under subdivision 43.

2.21 Sec. 7. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision
2.22 to read:

2.23 Subd. 46. **Regular disability.** "Regular disability," physical or psychological,
2.24 means a condition that is expected to prevent a member, for a period of not less than 12
2.25 months, from performing the normal duties of the position held by a person who is a
2.26 member of the public employees police and fire plan, and which results from a disease or
2.27 an injury that arises from any activities while not at work, or while at work and performing
2.28 those normal or less frequent duties that do not present inherent dangers that are specific
2.29 to the occupations covered by the public employees police and fire plan.

2.30 Sec. 8. Minnesota Statutes 2006, section 353.656, subdivision 1, is amended to read:

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

2.33 ~~(1) has not met the requirements for a retirement annuity under section 353.651,~~
2.34 ~~subdivision 1, or~~

3.1 ~~(2) has met the requirements for a retirement annuity under section 353.651,~~
 3.2 ~~subdivision 1, but who does not have 20 years of credited service, and who becomes~~
 3.3 ~~disabled and physically unfit to perform duties as a police officer, firefighter, or paramedic~~
 3.4 ~~as defined under section 353.64, subdivision 10, as a direct result of an injury, sickness, or~~
 3.5 ~~other disability incurred in or arising out of any act of duty, which has or is expected to~~
 3.6 ~~render the member physically or mentally unable to perform the duties as a police officer,~~
 3.7 ~~firefighter, or paramedic as defined under section 353.64, subdivision 10, for a period of at~~
 3.8 ~~least one year~~ qualifies for duty disability as defined in section 353.01, subdivision 41,
 3.9 shall receive disability benefits during the period of such disability:

3.10 ~~(b) The benefits must be in an amount equal to 60 percent of the "average salary" as~~
 3.11 ~~defined in section 353.01, subdivision 17a, plus an additional percent specified in section~~
 3.12 ~~356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.~~

3.13 (b) To be eligible for a benefit under paragraph (a), the member must have:

3.14 (1) not met the requirements for a retirement annuity under section 353.651,
 3.15 subdivision 1; or

3.16 (2) met the requirements under that subdivision, but does not have at least 20 years
 3.17 of allowable service credit.

3.18 (c) If the disability under this subdivision occurs before the member has at least five
 3.19 years of allowable service credit in the police and fire plan, the disability benefit must be
 3.20 computed on the "average salary" from which deductions were made for contribution to
 3.21 the police and fire fund.

3.22 Sec. 9. Minnesota Statutes 2006, section 353.656, subdivision 3, is amended to read:

3.23 Subd. 3. **Nonduty Regular disability benefit.** (a) ~~Any~~ A member of the police
 3.24 and fire plan who:

3.25 ~~(1) has not met the requirements for a retirement annuity under section 353.651,~~
 3.26 ~~subdivision 1, or~~

3.27 ~~(2) has met the requirements for a retirement annuity under section 353.651,~~
 3.28 ~~subdivision 1, but who does not have 15 years of credited service, and who becomes~~
 3.29 ~~disabled after not less than one year of allowable service because of sickness or injury~~
 3.30 ~~occurring while not on duty as a police officer, firefighter, or paramedic as defined under~~
 3.31 ~~section 353.64, subdivision 10, and by reason of that sickness or injury the member has~~
 3.32 ~~been or is expected to be unable to perform the duties as a police officer, firefighter, or~~
 3.33 ~~paramedic as defined under section 353.64, subdivision 10, for a period of at least one~~
 3.34 ~~year, is entitled to~~ qualifies for a regular disability benefit as defined in section 353.01,
 3.35 subdivision 46, shall receive a disability benefit as specified in paragraph (b).

4.1 (b) The benefit must be paid in the same manner as if the benefit were paid under
 4.2 section 353.651. If a disability under this subdivision occurs after one but in less than 15
 4.3 years of allowable service, the disability benefit must be the same as though the member
 4.4 had at least 15 years service. To be eligible for a benefit under paragraph (a), the member
 4.5 must have at least one year of allowable service credit and have:

4.6 (1) not met the requirements for a retirement annuity under section 353.651,
 4.7 subdivision 1, or

4.8 (2) met the requirements under that subdivision, but does not have at least 15 years
 4.9 of allowable service credit.

4.10 (c) For a member who is employed as a full-time firefighter by the Department of
 4.11 Military Affairs of the state of Minnesota, allowable service as a full-time state Military
 4.12 Affairs Department firefighter credited by the Minnesota State Retirement System may be
 4.13 used in meeting the minimum allowable service requirement of this subdivision.

4.14 Sec. 10. Minnesota Statutes 2006, section 353.656, subdivision 4, is amended to read:

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

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

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

4.27 (2) 125 percent of the base salary currently paid by the employing governmental
 4.28 subdivision for similar positions.

4.29 (c) The disability benefit must be reduced by one dollar for each three dollars by
 4.30 which the total amount of the current disability benefit, any workers' compensation
 4.31 benefits if applicable, and actual earnings exceed the greater disabilitant reemployment
 4.32 earnings limit. In no event may the disability benefit as adjusted under this subdivision
 4.33 exceed the disability benefit originally allowed.

4.34 Sec. 11. Minnesota Statutes 2006, section 353.656, subdivision 5a, is amended to read:

4.35 Subd. 5a. **Cessation of disability benefit.** The association shall cease the payment
 4.36 of an ~~in-line-of-duty or nonduty~~ any disability benefit the first of the month following the

5.1 reinstatement of a member to full time or less than full-time service in a position covered
5.2 by the police and fire fund.

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

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

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

5.17 Sec. 13. **[353E.001] DEFINITIONS.**

5.18 Subdivision 1. **Duty disability.** "Duty disability," physical or psychological, means
5.19 a disabling condition that is expected to prevent a member, for a period of not less than 12
5.20 months, from performing the normal duties of a local government correctional service
5.21 employee as defined under section 353E.02 and that is the direct result of an injury
5.22 incurred during, or a disease arising out of, the performance of normal duties or the actual
5.23 performance of less frequent duties, either of which are specific to protecting the property
5.24 and personal safety of others and that present inherent dangers that are specific to the
5.25 positions covered by the local government correctional service retirement plan.

5.26 Subd. 2. **Less frequent duties.** "Less frequent duties" means tasks designated in the
5.27 applicant's job description as either required from time to time or as assigned, but which
5.28 are not carried out as part of the normal routine of the applicant's job.

5.29 Subd. 3. **Normal duties.** "Normal duties" means specific tasks designated in the
5.30 applicant's job description and which the applicant performs on a day-to-day basis, but
5.31 do not include less frequent duties which may be requested to be done by the employer
5.32 from time to time.

5.33 Subd. 4. **Regular disability.** "Regular disability," physical or psychological, means
5.34 a disabling condition that is expected to prevent a member, for a period of not less than 12
5.35 months, from performing the normal duties of a local government correctional service

6.1 employee as defined under section 353E.02 and that results from a disease or an injury
 6.2 that arises from any activities while not at work or while at work from performing those
 6.3 normal or less frequent duties that do not present inherent dangers that are specific to the
 6.4 occupations covered by the local government correctional service retirement plan.

6.5 Sec. 14. Minnesota Statutes 2006, section 353E.06, subdivision 1, is amended to read:

6.6 Subdivision 1. **Duty disability qualification requirements.** A local government
 6.7 correctional employee who ~~becomes disabled and physically or mentally unfit to perform~~
 6.8 ~~the duties of the position as a direct result of an injury, sickness, or other disability that~~
 6.9 ~~is medically determinable, that was incurred in or arose out of any act of duty, and that~~
 6.10 ~~renders the employee physically or mentally unable to perform the employee's duties~~
 6.11 qualifies for a duty disability as defined in section 353E.001, subdivision 1, is entitled to
 6.12 a disability benefit upon filing a valid application. The disability benefit must be based
 6.13 on covered service under this chapter only and is an amount equal to 47.5 percent of the
 6.14 average salary defined in section 353E.04, subdivision 2, plus an additional percent equal
 6.15 to that specified in section 356.315, subdivision 5a, for each year of covered service
 6.16 under this chapter in excess of 25 years.

6.17 Sec. 15. Minnesota Statutes 2006, section 353E.06, subdivision 2, is amended to read:

6.18 Subd. 2. **Nonduty Regular disability qualification requirements.** A local
 6.19 government correctional employee who has at least one year of covered service under this
 6.20 chapter and ~~becomes disabled and physically or mentally unfit to perform the duties of~~
 6.21 ~~the position because of sickness or injury that is medically determinable and that occurs~~
 6.22 ~~while not engaged in covered employment, who qualifies for a regular disability benefit~~
 6.23 as defined in section 353E.001, subdivision 4, is entitled to a disability benefit based on
 6.24 covered service under this chapter upon filing a valid application. The disability benefit
 6.25 must be computed in the same manner as an annuity under section 353E.04, subdivision 3,
 6.26 and as though the employee had at least ten years of covered correctional service.

6.27 Sec. 16. **EFFECTIVE DATE.**

6.28 Sections 1 to 15 are effective July 1, 2007."

6.29 Renumber the sections in sequence and correct the internal references

6.30 Amend the title accordingly

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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

A bill for an act

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

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 non-duty 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.