



**H.F. 3713**  
(Nelson)

**S.F. 3405**  
(Betzold)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* PERA-P&F  
*Relevant Provisions of Law:* Minnesota Statutes, Sections 353.031 and 353.656  
*General Nature of Proposal:* Requires employer to make reasonable effort to find employment positions for injured police officers and firefighters; increases duty disability benefits for those who become disabled after more than 20 years of service.  
*Date of Summary:* March 13, 2008

**Specific Proposed Changes**

- Requires the employer to make a reasonable effort to find suitable employment positions for injured police officers and firefighters; and
- increases the duty disability benefits for those who become disabled after more than 20 years of service.

**Policy Issues Raised by the Proposed Legislation**

1. The issue is whether there is sufficient reason to consider section 1 of the bill when the substance of the proposed provision seems adequately covered in existing law.
2. Issues of reversing 2007 legislative changes.
3. Issue of treating duty disabilitants and total and permanent disabilitants comparably.
4. PERA position.
5. Benefit improvement/cost issue.
6. PERA-P&F actuarial condition.
7. Consideration of contribution rate increase.
8. Effective date issues.

**Potential Amendments**

- H3713-1A** removes section 1 from the bill.
- H3713-2A** adds a July 1, 2008, effective date to Sections 1 and 2.
- H3713-3A** removes section 2 from the bill.
- H3713-4A** adds a July 1, 2008, effective date to Section 1 and a July 1, 2007, retroactive effective date to Section 2.
- H3713-5A** revises PERA-P&F employee and employer contribution rates starting in 2009 by 1.2 percent of pay (from 9.4 percent of pay to 10.6 percent) while the employer contribution would increase by 1.8 percent of pay (from 14.1 percent to 15.9 percent).
- H3713-6A** revises PERA-P&F employee and employer contribution rates starting in 2009 by 1.1 percent of pay (from 9.4 percent of pay to 10.5 percent) while the employer contribution would increase by 1.7 percent of pay (from 14.1 percent to 15.8 percent).



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 3713 (Nelson); S.F. 3405 (Betzold): PERA-P&F; Adding Requirement that Employer Make Reasonable Effort to Provide Less Hazardous Duty Position to Injured PERA-P&F Members, and Increasing Duty Disability Benefits in Long Service Situations

DATE: March 11, 2008

## General Summary of H.F. 3713 (Nelson); S.F. 3405 (Betzold)

H.F. 3713 (Nelson); S.F. 3405 (Betzold) requires the employer to make a reasonable effort to find suitable employment positions for injured police officers and firefighters, and increases the duty disability benefits for those who become disabled after more than 20 years of service.

## Background Information

In the 2004 and 2006 Sessions, the Legislature began addressing problems with the Public Employees Police and Fire Plan (PERA-P&F) disability benefit program. Major revisions followed in the 2007 Session when the Legislature passed considerable reforms for that plan to limit abuse and bring some cost control to the PERA-P&F disability program. Laws 2007, Chapter 134, Article 4 (the source bills were H.F. 125 (Murphy, M.); S.F. 84 (Betzold) in the form of delete-everything amendment H0125-3A, as amended) was requested by the Public Employees Retirement Association (PERA), and it revised PERA-P&F disability benefit provisions and survivor provisions relating to all disabilities that commence after July 1, 2007, as follows:

1. Two revised disability categories were created, duty disability and regular disability, replacing the prior "duty" and "non-duty" categories, and the duty disability category was further divided into a total and permanent duty disability subgroup and other duty disability subgroup.

As revised, the duty disability subcategory is a physical or psychological disability caused by performing job-related duties protecting the property and personal safety of others that present inherent dangers (rather than being any disability that occurs or is related to being on duty), and which results in the individual being unable to perform the normal duties of the position for a period of at least one year.

In contrast, a total and permanent duty disability is a duty disability for which the individual qualifies under the total and permanent disability standard usually used for general employee plans. To meet a total and permanent disability standard, the individual must be unable to perform any gainful employment.

The final category, regular disability, is any job-related disability resulting from activity that did not present inherent danger, and all disabilities resulting from any non-duty activity.

2. Total and permanent duty disability benefits are 60 percent of the high-five salary, plus three percent of the high-five for each year of service over 20. (This is the treatment which under prior law had been provided to all duty disabilitants.)
3. Duty disabilities other than total and permanent duty disabilities are 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.
4. 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.
5. Duty-related disabilitants who do not meet the total and permanent disability standard and all regular disabilitants who are at least age 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.
6. The disability benefit, except those received by total and permanent duty disabilitants, 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.

7. Disability benefits can be retroactive for up to 90 days if salary or salary-equivalent benefits were not received during that period.
8. Disability benefits are not allowed if disability is due to illegal drug use and the individual has not taken part in a rehabilitation program and ceased drug use.
9. 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.)
10. 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.
11. 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.

These changes were in response to high and rising PERA-P&F disability provision costs. Information provided to the Commission last year when the Commission considered the above changes showed the normal cost of plan disability benefit provisions, as presented in the plan actuarial reports for selected years from 1990 through 2006. For comparison, the table included three general employee plans (MSRS-General, PERA-General, and TRA), the two correctional employee plans (MSRS-Correctional and PERA-Correctional), and the two statewide 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, over 2.3 percent of payroll in the State Patrol Plan and in excess of 3.4 percent of payroll in PERA-P&F as of the 2006 actuarial valuation.

The PERA-P&F disability normal cost approximately doubled as a percentage of payroll since 1990. The size of that increase actually could be considerably understated in the table, because it is based on the actuarial assumptions regarding probabilities of collecting disability benefits. In recent years those probabilities seriously understate usage. A recent experience study indicated that actual disability was 180 percent of the predicted number.

**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*

While general employee plans set a stringent requirement to qualify for disability (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, who have considerable employable skills, and who are earning considerable income from reemployment while receiving disability benefits. Some of these disability claims are due to injury while not at work, or while at work but not performing an employment-related duty.

## Discussion and Analysis

H.F. 3713 (Nelson); S.F. 3405 (Betzold) requires the employer to make a reasonable effort to find suitable employment positions for injured police officers and firefighters, and increases the duty disability benefits for those who become disabled after more than 20 years of service from 60 percent of the high-five average salary, to 60 percent plus an additional three percent for each year of service credit over 20 years.

H.F. 3713 (Nelson); S.F. 3405 (Betzold) raises several pension issues for Commission consideration, as follows:

1. Sufficient Need for Section 1. The issue is whether there is sufficient reason to consider section 1 of the bill, when the substance of the proposed provision seems adequately covered in existing law. Section 1 would add a subdivision to PERA's disability determination procedure, Minnesota Statutes, Section 353.031, requiring the employer to "make every reasonable attempt to provide less hazardous duty employment positions for marginally or less severely disabled" police officers and firefighters "with the same compensation, fringe benefits, and other terms and conditions of employment" as the individual would have received if the injury or illness had not occurred.

However, Minnesota Statutes already includes a requirement that the employer make every effort to find suitable employment accommodation for an injured officer or firefighter. Minnesota Statutes 2007, Section 353.031, subdivision 3, paragraph (f), reads in relevant part:

Any claim to disability must be supported by a report from the employer indicating that there is no available work that the employee can perform in the employee's disabled condition and that all reasonable accommodations have been considered. Upon request of the executive director, an employer shall provide evidence of the steps the employer has taken to attempt to provide reasonable accommodations and continued employment to the claimant.

Presumably, the first reasonable accommodation the employer would attempt is to identify or create a position for the individual with salary and fringe benefits for the individual comparable to that which the individual had at the time of the disabling event.

2. Section 2: Issues of Reversing 2007 Legislative Changes. Section 2 would increase the benefit to a duty disabilitant from 60 percent of the high-five average salary to 60 percent of the high-five average salary plus three percent of the high-five for every year in excess of 20. This can be seen as a return to the 2006 and earlier duty disability provision of this plan. This is a step back from the reform enacted in 2007.

The Commission may choose to consider whether it is too early to reconsider any of the changes enacted as reform measures last year. The Commission may also choose to consider whether any reversal of the provisions passed last year will lead to pressure to reverse other benefit-related actions enacted as part of that legislation, including those related to general disabilitants, survivors, the status of disabilitants at normal retirement age, and the reduced subsidy of early retirement. Any reversal of the 2007 provisions will increase PERA-P&F contribution requirements. This, in turn, creates a need to further increase employee and employer contribution rates, placing greater burdens on state aid and local employers. Higher PERA-P&F contribution rates will reduce the excess police state aids and all aid programs financed in whole or part from those excess aids.

3. Section 2: Issue of Treating Duty Disabilitants and Total and Permanent Disabilitants Comparably. The Commission may wish to consider that this proposal would give all PERA-P&F duty disabilitants the same disability benefit, although some meet the total and permanent disability standard enacted last year and others do not. Those who meet the total and permanent disability standard have disabilities sufficiently severe that they are unable to provide any form of gainful employment. In contrast, those who meet the less stringent position-specific duty disability are employable, and many are making considerable income through employment in the public and private sector. If the benefit improvement under this bill, which is for duty disabilitants who do not meet the total and permanent disability standard, is approved, that may support a later effort to further increase the benefits of the total and permanent disabilitants.
4. PERA Position. The Public Employees Retirement Association (PERA) executive director has indicated that PERA's board does support the benefit improvement proposed in section 2.

The Commission may wish to hear testimony from PERA on this matter. One question is why PERA recommended the revision in duty disability last year only to reverse its position this year. Another question is whether PERA intends to propose any further unraveling of last year's reform package. A third is why PERA contends this benefit enhancement is appropriate when the 2007 efforts are unlikely to fully restore PERA-P&F to financial health even if investment markets were strong, which they definitely are not.

5. Section 2, Benefit Improvement/Cost Issue. The Commission does not typically consider benefit improvements without actuarial information on cost and the impact of that cost on contribution rate requirements. There does not appear to be a cost estimate for this proposal by an actuary.

PERA has indicated by email that the cost of proposed benefit improvement "is uncertain, given that we haven't had any real experience with the new definition. If reinstated based on past disabilities approved (both duty and non-duty) it would cost us .5 percent of pay. However, reinstating it only for duty disability with our new definition is expected to have much less of an impact."

The Commission may wish to consider whether it is appropriate to consider this benefit proposal, particularly given the existing contribution rate deficiencies of this plan, as indicated below.

6. PERA-P&F Actuarial Condition. The issue is the current actuarial condition of PERA-P&F. According to the 2007 actuarial report, although PERA-P&F is 95 percent funded it has a serious contribution rate problem. Contributions currently made under law total 20.5 percent, creating a 5.6 percent contribution deficiency. Contribution rate increases are being phased in over a few years, with the last increase set to occur in 2009. Under existing law, for 2009 and thereafter the employee contribution rate is 9.4 percent of pay, and the employer rate is 14.1 percent of pay, for a total of 23.5 percent of pay. The current actuarial work below indicates that the total required contributions already exceed 26 percent of pay.

PERA-P&F 2007		
<u>Membership</u>		
Active Members		10,720
Service Retirees		4,938
Disabilitants		803
Survivors		1,291
Deferred Retirees		1,200
Nonvested Former Members		814
Total Membership		19,766
<u>Funded Status</u>		
Accrued Liability		\$5,669,346,646
Current Assets		\$5,382,707,345
Unfunded Accrued Liability		\$286,639,301
Funding Ratio	94.94%	
<u>Financing Requirements</u>		
Covered Payroll		\$699,841,244
Benefits Payable		\$280,266,868
Normal Cost	22.19%	\$155,328,501
Administrative Expenses	0.10%	\$699,841
Normal Cost & Expense	22.29%	\$156,028,342
Normal Cost & Expense	22.29%	\$156,028,342
Amortization	3.77%	\$26,384,015
Total Requirements	26.06%	\$182,412,357
Employee Contributions	8.20%	\$57,386,982
Employer Contributions	12.30%	\$86,080,473
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	0.00%	\$0
Total Contributions	20.50%	\$143,467,455
Total Requirements	26.06%	\$182,412,357
Total Contributions	20.50%	\$143,467,455
Deficiency (Surplus)	5.56%	\$38,944,902

7. Consideration of Contribution Rate Increase. The Commission may wish to consider increasing contribution rates for this plan. If last year's legislation was urgently needed to address the cost of the PERA-P&F plan, then presumably there is a need to face the cost implications of partially unraveling that package. When the Commission considers a benefit improvement, it is common practice to increase contribution rates to cover the cost of the increase plus a further increase to eliminate existing contribution deficiencies in the plan. There is no section in this bill which revises contribution rates. The Commission may wish to consider an amendment to address contribution rates.
8. Effective Date Issues. The sections of the bill do not have effective dates. The Commission may wish to add effective dates. If the Commission were to consider using July 1, 2008, that could create a problem. Individuals who became duty disabilitants after the effective date of last year's legislation (July 1, 2007) and prior to the effective date of 2008 legislation may argue that the change should be retroactive to July 1, 2007, to include them. If the Commission does not recommend use of the retroactive effective date, it is likely that a bill will be introduced next year to extend the enhanced benefit to those who became disabled after last year's legislation became effective and prior to passage of this year's legislation.

#### Potential Amendments for Commission Consideration

1. **Amendment H3713-1A** removes section 1 from the bill.
2. **Amendment H3713-2A** can be used if section 1 remains in the bill, and adds a July 1, 2008, effective date.
3. **Amendment H3713-3A** removes section 2.
4. **Amendment H3713-4A** can be used if section 2 remains in the bill, and adds a July 1, 2008, effective date to Section 1 and a July 1, 2007, retroactive effective date to Section 2.
5. **Amendment H3713-5A** revises PERA-P&F employee and employer contribution rates starting in 2009, assuming the cost of this benefit improvement is .5 percent of payroll and assuming the plan total requirements are as indicated in the 2007 actuarial valuation, which was 26.06 percent of pay. That total requirement, plus an estimated .5 percent of pay to cover the benefit improvement, totals 26.56 percent of pay. Under existing law, contributions in 2009 and thereafter must equal 23.5 percent of pay, which would leave a contribution deficiency of 3.06 percent of pay. The increase proposed in the amendment totals 3.0 percent of pay, divided 60 percent employer/40 percent employee, to conform to the usual sharing of burden in a public safety plan. The employee contribution rate would increase in 2009 by 1.2 percent of pay (from 9.4 percent of pay to 10.6 percent) while the employer contribution would increase by 1.8 percent of pay (from 14.1 percent to 15.9 percent).
6. **Amendment H3713-6A** is an alternative to Amendment H3713-5A. It is comparable to Amendment H3713-5A except that the assumed cost of the benefit increase is one-quarter percent of pay rather than one-half percent of pay. The employee contribution rate would increase in 2009 by 1.1 percent of pay (from 9.4 percent of pay to 10.5 percent) while the employer contribution would increase by 1.7 percent of pay (from 14.1 percent to 15.8 percent).

**Ed Burek**

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**From:** Mary.Vanek@state.mn.us  
**Sent:** Tuesday, March 11, 2008 6:31 AM  
**To:** Ed Burek  
**Subject:** RE: H.F. 3713; S.F. 3405: PERA P&F: Less Hazardous Duty Requirement; Increasing Long Service Duty Disability Benefit

We support the second section, and need to consult with the League of MN Cities on the first section. While we don't disagree that the concept of Section 1 makes sense, we're not sure how to effectively administer it, especially for smaller departments. I think it needs some work.

The cost of reinstating the full calculation for duty disability is uncertain, given we haven't had any real experience with the new definition. If reinstated based on past disabilities approved (both duty and non-duty) it would cost us .5 percent of pay. However, reinstating it only for duty disability with our new definition is expected to have much less of an impact.

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**From:** Ed Burek [mailto:edward.burek@lcpr.leg.mn]  
**Sent:** Monday, March 10, 2008 12:08 PM  
**To:** 'Mary.Vanek@state.mn.us'  
**Subject:** H.F. 3713; S.F. 3405: PERA P&F: Less Hazardous Duty Requirement; Increasing Long Service Duty Disability Benefit

Mary,

Regarding this bill, is it safe to assume that you and your board support the first section, which requires the employer to find suitable work for less severely injured police officers and firefighters, but not the second, which returns the duty disability provision to its pre-2007 form, by providing an additional 3.0 percent benefit for each year in excess of 20?

Do you have any information on the cost implications of this bill if it were to pass?

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Ed Burek

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**From:** Mary.Vanek@state.mn.us  
**Sent:** Tuesday, March 11, 2008 12:54 PM  
**To:** Ed Burek  
**Subject:** RE: PERA Support for Benefit Increase Under H.F. 3713; S.F. 3405

this is the one provision we indicated that we could support -- and would have compromised on last year if they hadn't asked to derail the entire bill. I have made it absolutely clear that everything else is off the table.

With the new disability definition, this is the one area for which I am still confident that we can compromise and still achieve savings. We cannot return to regular disability calculated at full years of service or to the automatic survivor coverage. P&F members had been using disability as a surrogate for unreduced retirement at age 50 -- our data absolutely demonstrates that -- and with the old duty definition, it was hard for us to deny duty status, but that is not the case now. You need to understand that this is something we have worked with others on since the changes last year. Yes, someone may ask for more, but we won't budge on more. The members of the LCPR will need to decide if they are comfortable taking this compromise position.

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**From:** Ed Burek [mailto:edward.burek@lcpr.leg.mn]  
**Sent:** Tuesday, March 11, 2008 10:56 AM  
**To:** May Vanek (mary.vanek@state.mn.us)  
**Subject:** PERA Support for Benefit Increase Under H.F. 3713; S.F. 3405

Your e-mail indicates that PERA supports increasing the PERA P&F duty disability benefit from 60 percent of high-five to 60 percent of the high-five plus an additional 3.0 percent for each year in excess of 20 years of service. This is a return to the pre-2007 duty disability provision, and puts them on a par with the total and permanent duty disability category. Why does PERA support this change? If the Commission approves this bill, other groups with downsized benefits (general disability, spouses who will lose automatic coverage, treatment of disability at normal retirement age) under the 2007 legislation will be asking that pre 2007 treatment be restored. It will be difficult to keep the 2007 provisions, passed as reform measures to control PERA P&F disability costs, from completely unraveling.

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### 353.031 DISABILITY DETERMINATION PROCEDURES.

Subdivision 1. Application. This section applies to all disability determinations for the public employees general fund, the public employees police and fire fund, and the local government correctional service retirement plan and any other disability determination subject to approval by the board, except as otherwise specified in section 353.33, 353.656, or 353E.05. These requirements and the requirements of section 353.03, subdivision 3, are in addition to the specific requirements of each plan and govern in the event there is any conflict between these sections and the procedures specific to any of those plans under section 353.33, 353.656, or 353E.06.

Subd. 2. Plan document policy statement. Disability determinations for the public employees general fund must be made subject to section 353.01, subdivision 19; and for the police and fire plan and the local government correctional service retirement plan must be made consistent with the legislative policy and intent set forth in section 353.63.

Subd. 3. Procedure to determine eligibility; generally. (a) Every claim for a disability benefit must be initiated in writing on an application form and in the manner prescribed by the executive director and filed with the executive director. An application for disability benefits must be made within 18 months following termination of public service as defined under section 353.01, subdivision 11a.

(b) All medical reports must support a finding that the disability arose before the employee was placed on any paid or unpaid leave of absence or terminated public service, as defined under section 353.01, subdivision 11a.

(c) An applicant for disability shall provide a detailed report signed by a licensed medical doctor and at least one additional report signed by a medical doctor, psychologist, or chiropractor. The applicant shall authorize the release of all medical and health care evidence, including all medical records and relevant information from any source, to support the application for initial, or the continuing payment of, disability benefits.

(d) All reports must contain an opinion regarding the claimant's prognosis, the duration of the disability, and the expectations for improvement. Any report that does not contain and support a finding that the disability will last for at least one year may not be relied upon to support eligibility for benefits.

(e) Where the medical evidence supports the expectation that at some point in time the claimant will no longer be disabled, any decision granting disability may provide for a termination date upon which disability can be expected to no longer exist. In the event a termination date is made part of the decision granting benefits, prior to the actual termination of benefits, the claimant shall have the opportunity to show that the disabling condition for which benefits were initially granted continues. In the event the benefits terminate in accordance with the original decision, the claimant may petition for a review by the board of trustees under section 353.03, subdivision 3, or may reapply for disability in accordance with these procedures and section 353.33, 353.656, or 353E.06, as applicable.

(f) Any claim to disability must be supported by a report from the employer indicating that there is no available work that the employee can perform in the employee's disabled condition and that all reasonable accommodations have been considered. Upon request of the executive director, an employer shall provide evidence of the steps the employer has taken to attempt to provide reasonable accommodations and continued employment to the claimant. The employer shall also provide a certification of the member's past public service; the dates of any paid sick leave, vacation, or any other employer-paid salary continuation plan beyond the last working day; and whether or not any sick or annual leave has been allowed.

(g) An employee who is placed on leave of absence without compensation because of a disability is not barred from receiving a disability benefit.

(h) An applicant for disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for disability benefits. If the application for disability benefits is approved, the retirement annuity application is cancelled. If disability benefits are denied, the retirement annuity application must be processed upon the request of the applicant. No member of the public employees general plan, the public employees police and fire plan, or the local government correctional service retirement plan may receive a disability benefit and a retirement annuity simultaneously from the same plan.

Subd. 4. Additional requirements to determine eligibility for police and fire or local government correctional service plan disability benefits. (a) If an application for disability benefits is filed within two years of the date of the injury or the onset of the illness that gave rise to the disability application, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or the onset of the illness causing the disability. The employer must provide evidence indicating whether the applicant is able or unable to perform the duties of the position held on the date of the injury or onset of the illness causing the disability and the specifications of any duties that the individual can or cannot perform.

(b) If an application for disability benefits is filed more than two years after the date of injury or the onset of an illness causing the disability, the application must be supported by evidence that the applicant is unable to perform the most recent duties that are expected to be performed by the applicant during the 90 days before the filing of the application. The employer must provide evidence of the duties that are expected to be performed by the applicant during the 90 days before the filing of the application, whether the applicant can or cannot perform those duties overall, and the specifications of any duties that the applicant can or cannot perform.

(c) Any report supporting a claim to disability benefits under section 353.656 or 353E.06 must specifically relate the disability to its cause; and for any claim to duty disability from an injury or illness arising out of an act of duty, the report must relate the cause of disability to specific tasks or functions required to be performed by the employee in fulfilling the employee's duty-related acts which must be specific to the inherent dangers of the positions eligible for membership in the police and fire fund and the local government correctional service retirement plan. Any report that does not relate the cause of disability to specific acts or functions performed by the employee may not be relied upon as evidence to support eligibility for benefits and may be disregarded in the executive director's decision-making process.

(d) Any application for duty disability must be supported by a first report of injury as defined in section 176.231.

(e) If a member who has applied for and been approved for disability benefits before the termination of service does not terminate service or is not placed on an authorized leave of absence as certified by the governmental subdivision within 45 days following the date on which the application is approved, the application shall be canceled. If an approved application for disability benefits has been canceled, a subsequent application for disability benefits may not be filed on the basis of the same medical condition for a minimum of one year from the date on which the previous application was canceled.

Subd. 5. Medical adviser. The executive director may contract with licensed physicians or physicians on the staff of the state commissioner of health, as designated by the commissioner, to be the medical adviser of the association. The medical adviser shall review all medical reports submitted to the association, including the findings of an independent medical examination requested under this section, and shall advise the executive director.

Subd. 6. Independent medical examination. Any individual applying for or receiving disability benefits must submit to an independent medical examination if requested by the executive director. The medical examination must be paid for by the association.

Subd. 7. Refusal of examination or medical evidence. If a person applying for or receiving a disability benefit refuses to submit to a medical examination under subdivision 6, or fails to provide or to authorize the release of medical evidence under subdivision 3, the association shall cease the application process or shall discontinue the payment of a disability benefit, whichever is applicable. Upon the receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Subd. 8. Proof of continuing disability. (a) A disability benefit payment must not be made except upon adequate proof furnished to the executive director of the association that the person remains disabled.

(b) During the time when disability benefits are being paid, the executive director of the association has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

(c) Adequate proof of a disability must include a written expert report by a licensed physician, a licensed chiropractor, or, with respect to a mental impairment, a licensed psychologist.

Subd. 9. Application approval or denial; decision of executive director. Any decision of the executive director is final, except that a member whose application for disability benefits or whose continuation of disability benefits is denied may appeal the executive director's decision to the board of trustees within 60 days of receipt of a certified letter notifying the member of the decision to deny the application or continuation of benefits. In developing the record for review by the board when a decision is appealed, the executive director may direct that the applicant participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings, and, as applicable, a vocational assessment conducted by the qualified rehabilitation counselor on contract with the Public Employees Retirement Association.

Subd. 10. Restoring forfeited service. To restore forfeited service, a repayment of a refund must be made within six months after the effective date of disability benefits or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01 may be made after the occurrence of the disability for which an application is filed under this section.

### 353.656 DISABILITY BENEFITS.

Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the police and fire plan who is determined to qualify for duty disability as defined in section 353.01, subdivision 41, shall receive disability benefits during the period of such disability in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a.

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

- (1) not met the requirements for a retirement annuity under section 353.651, subdivision 1; or
- (2) met the requirements under that subdivision, but does not have at least 20 years of allowable service credit.

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

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

Subd. 1a.MS 2006 [Renumbered, subd 1b]

Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A member of the police and fire plan whose disabling condition is determined to be a duty disability that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, disability benefits in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

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

(c) If a member approved for disability benefits under this subdivision dies before attaining normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or within 60 months of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (1), if the death is the direct result of the disabling condition for which disability benefits were approved, or section 353.657, subdivision 2, paragraph (a), clause (2), if the death is not directly related to the disabling condition for which benefits were approved under this subdivision.

(d) If the election of an actuarial equivalent optional annuity is not made at the time the permanent and total disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or having collected total and permanent disability benefits for 60 months, whichever is later. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

Subd. 1b. **Optional annuity election.** (a) A disabled member of the police and fire fund may elect to receive the normal disability benefit or an actuarial equivalent optional annuity. If the election of an actuarial equivalent optional annuity is made before the commencement of payment of the disability benefit, the optional annuity must begin to accrue on the same date as the disability benefit covering only the disability would have accrued.

(b) If an election of an optional annuity is not made before the commencement of the disability benefit, the disability beneficiary may elect an optional annuity:

- (1) within 90 days before normal retirement age;
- (2) upon the filing of an application to convert to an early retirement annuity, if electing to convert to an early retirement annuity before the normal retirement age; or
- (3) within 90 days before the expiration of the 60-month period for which a disability benefit is paid, if the disability benefit is payable because the disabled member did not have at least 20 years of allowable service at normal retirement age.

(c) If a disabled member who has named a joint and survivor optional annuity beneficiary dies before the disability benefit ceases and is recalculated under subdivision 5a, the beneficiary eligible to receive the joint and survivor annuity may elect to have the annuity converted at the times designated in paragraph (b), clause (1), (2), or (3), whichever allows for the earliest payment of a higher joint and survivor annuity option resulting from recalculation under subdivision 5a, paragraph (e).

(d) A disabled member may name a person other than the spouse as beneficiary of a joint and survivor annuity only if the spouse of the disabled member permanently waives surviving spouse coverage on the disability application form prescribed by the executive director.

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

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

**Subd. 2. Benefits paid under workers' compensation law.** If a member, as described in subdivision 1, is injured under circumstances which entitle the member to receive benefits under the workers' compensation law, the member shall receive the same benefits as provided in subdivision 1, with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts paid to the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disablitant if the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater. The disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

**Subd. 2a. Reduction restored; overpayment.** A disabled member who is eligible to receive a disability benefit under subdivision 2 as of June 30, 1987, and whose disability benefit amount had been reduced prior to July 1, 1987, as a result of the receipt of workers' compensation benefits, must have the disability benefit payment amount restored, as of July 1, 1987, calculated in accordance with subdivision 2. However, a disabled member is not entitled to receive retroactive repayment of any disability benefit amounts lost before July 1, 1987, as a result of the reduction required before that date because of the receipt of workers' compensation benefits. Any disability benefit overpayments made before July 1, 1987, and occurring because of the failure to reduce the disability benefit payment to the extent required because of the receipt of workers' compensation benefits, may be collected by the association through the reduction of disability benefit or annuity payment made on or after July 1, 1987, until the overpayment is fully recovered.

**Subd. 3. Regular disability benefit.** (a) A member of the police and fire plan who qualifies for a regular disability benefit as defined in section 353.01, subdivision 46, is entitled to receive a disability benefit, after filing a valid application, in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a.

(b) To be eligible for a benefit under paragraph (a), the member must have at least one year of allowable service credit and have:

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

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

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

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

**Subd. 3a. Total and permanent regular disability; computation of benefits.** (a) A member of the police and fire plan whose disabling condition is determined to be a regular disability under section 353.01, subdivision 46, that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, a disability benefit in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 15 years.

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

(c) A member approved for disability benefits under this subdivision may elect to receive a normal disability benefit or an actuarial equivalent optional annuity. If the election of an actuarial equivalent optional annuity is not made at the time the total and permanent disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or having collected disability benefits for 60 months, whichever is later. No surviving spouse benefits are payable if the member dies during the period in which a normal total and permanent disability benefit is being paid. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

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

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

- (1) the salary earned at the date of disability; or
- (2) 125 percent of the base salary currently paid by the employing governmental subdivision for similar positions.

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

Subd. 5. [Repealed, 2007 c 134 art 4 s 36]

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

(b) A disability benefit paid to a disabled member of the police and fire plan, that was granted under laws in effect after June 30, 2007, terminates at the end of the month in which the member:

- (1) reaches normal retirement age;
- (2) if the disability benefit is payable for a 60-month period as determined under subdivisions 1 and 3, as applicable, the first of the month following the expiration of the 60-month period; or
- (3) if the disabled member so chooses, the end of the month in which the member has elected to convert to an early retirement annuity under section 353.651, subdivision 4.

(c) If the police and fire plan member continues to be disabled when the disability benefit terminates under this subdivision, the member is deemed to be retired. The individual is entitled to receive a normal retirement annuity or an early retirement annuity under section 353.651, whichever is applicable, as further specified in paragraph (d) or (e). If the individual did not previously elect an optional annuity under subdivision 1a, paragraph (a), the individual may elect an optional annuity under subdivision 1a, paragraph (b).

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

(e) When an individual's benefit is recalculated as a retirement annuity under this section, the annuity must be based on clause (1) or clause (2), whichever provides the greater amount: (1) the benefit amount at the time of reclassification, including all prior adjustments provided under section 11A.18; or

(2) a benefit amount computed on the member's actual years of accrued allowable service credit and the law in effect at the time the disability benefit first accrued, plus any increases that would have applied since that date under section 11A.18.

Subd. 6. [Repealed, 1993 c 307 art 4 s 54]

Subd. 6a. **Disability survivor benefits for pre-July 1, 2007, disabilitants.** (a) If a member who is receiving a disability benefit that was granted under the laws in effect before July 1, 2007, dies before attaining normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or within five years of the effective date of the disability, whichever is later, the surviving spouse shall receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (2); or 2a, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1. The joint and survivor optional annuity under subdivision 2a is based on the minimum disability benefit under subdivision 1 or 3, or the deceased member's allowable service, whichever is greater.

(b) If the disability benefit was granted under the laws in effect before July 1, 2007, and the disabilitant is living at the age required for receipt of a retirement annuity under section 353.651, subdivision 1, or five years after the effective date of the disability, whichever is later, the disabled member may continue to receive a normal disability benefit, or the member may elect a joint and survivor optional annuity under section 353.30. The optional annuity is based on the minimum disability benefit under subdivision 1 or 3, or the member's allowable service, whichever is greater. The election of this joint and survivor annuity must occur within 90 days before attaining normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or within 90 days before the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect the first of the month following the month in which the person attains the age required for receipt of a retirement annuity under section 353.651, subdivision 1, or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

(c) If any disabled member dies while receiving a benefit and has a dependent child or children, the association shall grant a dependent child benefit under section 353.657, subdivision 3.

Subd. 7.[Repealed, 1992 c 432 art 2 s 51]

Subd. 8. **Application procedure to determine eligibility for police and fire plan disability benefits.** The application procedures to determine eligibility for police and fire plan disability benefits are defined under section 353.031.

Subd. 9.[Repealed, 2007 c 134 art 4 s 36]

Subd. 10. **Accrual of benefits.** (a) Except for a total and permanent disability under subdivision 1a, a disability benefit begins to accrue when the applicant is no longer receiving any form of compensation, whether salary or paid leave 90 days preceding the filing of an application; or, if annual or sick leave, or any other employer-paid salary continuation plan is paid for more than the 90-day period, from the date on which the payment of salary ceased, whichever is later. Except for a total and permanent disability under subdivision 1a, no member is entitled to receive a disability benefit payment when there remains to the member's credit any unused annual leave, sick leave, or any other employer-paid salary continuation benefit, or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary.

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

Subd. 11.[Repealed, 2007 c 134 art 4 s 36]

Subd. 12.[Repealed, 2007 c 134 art 4 s 36]

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

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

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

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

**History:** 1971 c 297 s 3; 1973 c 753 s 72-74; 1975 c 102 s 20,21; 1975 c 359 s 23; 1976 c 329 s 28; 1977 c 429 s 63; 1978 c 796 s 38; 1979 c 216 s 19; 1981 c 68 s 23,24; 1981 c 180 s 16; 1981 c 224 s 96; 1983 c 85 s 2; 1Sp1985 c 7 s 15; 1986 c 444; 1987 c 284 art 5 s 14,15; 1987 c 372 art 1 s 7; art 9 s 20,21; 1989 c 319 art 3 s 22; art 17 s 14,15; 1990 c 570 art 11 s 9,10; 1991 c 341 s 23; 1992 c 432 art 2 s 19; 1993 c 307 art 4 s 34-39; 1993 c 352 s 5; 1994 c 463 s 1; 1997 c 233 art 1 s 42; 2000 c 461 art 3 s 23,24; 2002 c 392 art 11 s 52; 2004 c 267 art 8 s 20-25; 1Sp2005 c 8 art 1 s 14; 2006 c 212 art 3 s 35; 2006 c 271 art 3 s 29; art 4 s 1-3; 2007 c 134 art 4 s 15-25

- 1.1 ..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:
- 1.2 Page 1, delete section 1
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:

1.2 Page 1, after line 17, insert:

1.3 "EFFECTIVE DATE. This section is effective July 1, 2008."

1.4 Page 2, after line 14, insert:

1.5 "EFFECTIVE DATE. This section is effective July 1, 2008."



- 1.1 ..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:
- 1.2 Page 1, delete section 2
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:

1.2 Page 1, after line 17, insert:

1.3 "EFFECTIVE DATE. This section is effective July 1, 2008."

1.4 Page 2, after line 14, insert:

1.5 "EFFECTIVE DATE. This section is effective retroactively from July 1, 2007."

..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 2006, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution rate.** (a) The employee contribution is an amount equal to the percent of the total salary of the member specified in paragraph (b). This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

(b) ~~For calendar year 2006, the employee contribution rate is 7.0 percent. For calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008, the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter, The employee contribution rate is 9.4~~ 10.6 percent of salary.

**EFFECTIVE DATE.** This section is effective as of the first full payroll period beginning on or after January 1, 2009.

Sec. 3. Minnesota Statutes 2006, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution rate.** (a) The employer contribution shall be an amount equal to the percent of the total salary of every member as specified in paragraph (b). This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

(b) ~~For calendar year 2006, the employer contribution rate is 10.5 percent. For calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008, the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter, The employer contribution rate is 14.1~~ 15.9 percent of salary.

**EFFECTIVE DATE.** This section is effective as of the first full payroll period beginning on or after January 1, 2009."

- 2.1 Renumber the sections in sequence and correct the internal references
- 2.2 Amend the title accordingly

..... moves to amend H.F. No. 3713; S.F. No. 3405, as follows:

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 2006, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution rate.** (a) The employee contribution is an amount equal to the percent of the total salary of the member specified in paragraph (b). This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

(b) ~~For calendar year 2006, the employee contribution rate is 7.0 percent. For calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008, the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter, The employee contribution rate is 9.4~~ 10.5 percent of salary.

**EFFECTIVE DATE.** This section is effective as of the first full payroll period beginning on or after January 1, 2009.

Sec. 3. Minnesota Statutes 2006, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution rate.** (a) The employer contribution shall be an amount equal to the percent of the total salary of every member as specified in paragraph (b). This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

(b) ~~For calendar year 2006, the employer contribution rate is 10.5 percent. For calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008, the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter, The employer contribution rate is 14.1~~ 15.8 percent of salary.

**EFFECTIVE DATE.** This section is effective as of the first full payroll period beginning on or after January 1, 2009."

- 2.1 Renumber the sections in sequence and correct the internal references
- 2.2 Amend the title accordingly

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State of Minnesota  
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH  
SESSION**

HOUSE FILE NO. 3713

March 3, 2008

Authored by Nelson

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act  
1.2 relating to retirement; providing for the amount of duty disability pension for  
1.3 injured police officers and firefighters; requiring employers to make reasonable  
1.4 efforts to provide less hazardous duty for injured employees; amending  
1.5 Minnesota Statutes 2007 Supplement, sections 353.031, by adding a subdivision;  
1.6 353.656, subdivision 1.

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

1.8 Section 1. Minnesota Statutes 2007 Supplement, section 353.031, is amended by  
1.9 adding a subdivision to read:

1.10        Subd. 3a. **Less hazardous duty requirement.** In addition to the requirements of  
1.11        subdivision 3, paragraph (f), for members of the public employees police and fire fund, the  
1.12        employer shall make every reasonable attempt to provide less hazardous duty employment  
1.13        positions for marginally or less severely disabled police officers in the police department  
1.14        and firefighters in the fire department with the same compensation, fringe benefits, and  
1.15        other terms and conditions of employment as the member would have otherwise currently  
1.16        received as a regularly employed police officer or firefighter, whichever is applicable,  
1.17        at the same rank and experience.

1.18 Sec. 2. Minnesota Statutes 2007 Supplement, section 353.656, subdivision 1, is  
1.19 amended to read:

Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the police and fire plan who is determined to qualify for duty disability as defined in section 353.01, subdivision 41, shall receive disability benefits during the period of such disability in an amount equal to 60 percent of the average salary as defined in section 353.01,

2.1 subdivision 17a, plus an additional percent specified under section 356.315, subdivision 6,  
2.2 of that average salary for each year of service in excess of 20 years.

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

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

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

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

2.11 (d) If the disability under this subdivision occurs before the member has at least five  
2.12 years of allowable service credit in the police and fire plan, the disability benefit must be  
2.13 computed on the average salary from which deductions were made for contribution to  
2.14 the police and fire fund.