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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**NINETY-SECOND SESSION**

**H. F. No. 1387**

02/22/2021 Authored by Nelson, M.  
The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act

1.2 relating to retirement; Public Employees Retirement Association police and fire  
1.3 plan; amending disability provisions for members who are age 55 and older;  
1.4 amending Minnesota Statutes 2020, section 353.656, subdivisions 1, 1a, 1b, 3, 3a,  
1.5 5a.

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

1.7 Section 1. Minnesota Statutes 2020, section 353.656, subdivision 1, is amended to read:

1.8 Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the police  
1.9 and fire plan, ~~other than who (1) is not~~ a firefighter covered by section 353.6511, or a police  
1.10 officer covered by section 353.6512, ~~who is determined to qualify for (2) has a condition~~  
1.11 ~~that meets the definition of a duty disability as defined in~~ under section 353.01, subdivision  
1.12 41, ~~(3) has filed a valid application under section 353.031, and (4) is under age 55,~~ is entitled  
1.13 to receive disability benefits during the period of such disability in an amount equal to 60  
1.14 percent of the ~~member's~~ average salary as defined in ~~under~~ section 353.01, subdivision 17a,  
1.15 plus an additional 3.0 percent of that average salary for each year of service in excess of 20  
1.16 years.

1.17 (b) ~~To be eligible for a benefit under paragraph (a), the A member must have of the~~  
1.18 ~~police and fire plan who meets the requirements under paragraph (a), clauses (1) to (3), but~~  
1.19 ~~who is age 55 or older, is 100 percent vested in and entitled to receive a retirement annuity.~~  
1.20 ~~The amount of the retirement annuity must be the greater of:~~

1.21 (1) ~~not met the age and vesting requirements for a disability benefit calculated under~~  
1.22 ~~paragraph (a); or~~  
1.23 (2) ~~a retirement annuity calculated under section 353.651, subdivision 4; or 3.~~

2.1       ~~(2) met the age and vesting requirements under that subdivision, but does not have at~~  
2.2       ~~least 20 years of allowable service credit.~~

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

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

2.10      Sec. 2. Minnesota Statutes 2020, section 353.656, subdivision 1a, is amended to read:

2.11      Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A member  
2.12      of the police and fire plan, ~~other than who~~ (1) is not a firefighter covered by section 353.6511,  
2.13      or a police officer covered by section 353.6512, ~~whose disabling~~ (2) has a condition is  
2.14      ~~determined to be~~ that meets the definition of a duty disability under section 353.01,  
2.15      subdivision 41, and that is also a permanent and total and permanent disability as defined  
2.16      ~~in~~ under section 353.01, subdivision 19, and (3) has filed a valid application under section  
2.17      353.031, is entitled to receive, for life, disability benefits in an amount equal to 60 percent  
2.18      of the member's average salary as defined ~~in~~ under section 353.01, subdivision 17a, plus  
2.19      an additional 3.0 percent of that average salary for each year of service in excess of 20 years.

2.20      (b) A disability benefit payable under paragraph (a) is subject to eligibility review under  
2.21      section 353.33, subdivision 6, but the review may be waived if the executive director receives  
2.22      a written statement from the association's medical advisor that no improvement can be  
2.23      expected in the member's disabling condition that was the basis for payment of the benefit  
2.24      under paragraph (a). A member receiving a disability benefit under this subdivision who is  
2.25      found to no longer ~~be permanently and totally disabled~~ have a total and permanent disability  
2.26      as defined under section 353.01, subdivision 19, but continues to ~~meet the definition for~~  
2.27      ~~receipt of~~ have a duty disability as defined under section 353.01, subdivision 41, is subject  
2.28      to subdivision 1 upon written notice from the association's medical advisor that the person  
2.29      is no longer ~~considered permanently and totally disabled~~ has a total and permanent disability,  
2.30      and may, upon application, elect an optional annuity under subdivision 1b.

2.31      (c) If a member approved for disability benefits under this subdivision dies before  
2.32      attaining normal retirement age as defined ~~in~~ under section 353.01, subdivision 37, paragraph  
2.33      (b), or within 60 months of the effective date of the disability, whichever is later, the  
2.34      surviving spouse is entitled to receive a survivor benefit under section 353.657, subdivision

3.1       2, paragraph (a), clause (1), if the death is the direct result of the disabling condition for  
3.2       which disability benefits were approved, or section 353.657, subdivision 2, paragraph (a),  
3.3       clause (2), if the death is not directly related to the disabling condition for which benefits  
3.4       were approved under this subdivision.

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

3.11      Sec. 3. Minnesota Statutes 2020, section 353.656, subdivision 1b, is amended to read:

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

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

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

3.20       (2) upon the filing of an application to convert to an early retirement annuity, if electing  
3.21      to convert to an early retirement annuity before the normal retirement age; or

3.22       (3) within 90 days before the expiration of the 60 month period for which a disability  
3.23       benefit is paid, if the disability benefit is payable because the disabled member did not have  
3.24       at least 20 years of allowable service at normal retirement age; or

3.25       (4) (3) upon being determined a determination that the disability benefit recipient  
3.26      continues to be disabled under subdivision 1, but is no longer totally and permanently  
3.27       disabled has a total and permanent disability under subdivision 1a.

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

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

4.5       (e) If the spouse of the member permanently waives survivor coverage, the dependent  
4.6 child or children, if any, continue to be eligible for dependent child benefits under section  
4.7 353.657, subdivision 3, and the designated optional annuity beneficiary may draw the  
4.8 monthly benefit.

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

4.12 Sec. 4. Minnesota Statutes 2020, section 353.656, subdivision 3, is amended to read:

4.13       **Subd. 3. Regular disability benefit.** (a) A member of the police and fire plan, ~~other~~  
4.14 ~~than who (1) is not a firefighter covered by section 353.6511, or a police officer covered~~  
4.15 ~~by section 353.6512, who qualifies for (2) has at least one year of allowable service, (3) has~~  
4.16 ~~a condition that meets the definition of a regular disability benefit as defined in~~ ~~under~~ section  
4.17 ~~353.01, subdivision 46, (4) has filed a valid application under section 353.031, and (5) is~~  
4.18 ~~under age 55, is entitled to receive a disability benefit, after filing a valid application,~~ in an  
4.19 amount equal to 45 percent of the ~~member's~~ average salary as defined ~~in~~ ~~under~~ section  
4.20 353.01, subdivision 17a.

4.21       (b) ~~To be eligible for a benefit under paragraph (a), the A member must have at least~~  
4.22 ~~one year of allowable service credit and have of the police and fire plan who meets the~~  
4.23 ~~requirements under paragraph (a), clauses (1) to (4), but who is age 55 or older, is entitled~~  
4.24 ~~to receive a retirement annuity. The amount of the retirement annuity is the greater of:~~

4.25           (1) ~~not met the age and a disability benefit calculated under paragraph (a), not subject~~  
4.26 ~~to the vesting requirements for~~ ~~under~~ section 353.01, subdivision 47; or

4.27           (2) ~~a retirement annuity calculated under section 353.651, subdivision 4; or 3, subject~~  
4.28 ~~to the vesting requirements under section 353.01, subdivision 47.~~

4.29           ~~(2) met the age and vesting requirements under that subdivision, but does not have at~~  
4.30 ~~least 15 years of allowable service credit.~~

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

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

5.5       Sec. 5. Minnesota Statutes 2020, section 353.656, subdivision 3a, is amended to read:

5.6       **Subd. 3a. Total and permanent regular disability; computation of benefits.** (a) A  
5.7       member of the police and fire plan, ~~other than~~ who (1) is not a firefighter covered by section  
5.8       353.6511, or a police officer covered by section 353.6512, ~~whose disabling (2) has a~~  
5.9       condition is determined to be that meets the definition of a regular disability under section  
5.10       353.01, subdivision 46, and that is also a ~~permanent and total~~ and permanent disability as  
5.11       defined ~~in~~ under section 353.01, subdivision 19, and (3) has filed a valid application under  
5.12       section 353.031, is entitled to receive, for life, a disability benefit in an amount equal to 45  
5.13       percent of the member's average salary as defined ~~in~~ under section 353.01, subdivision 17a,  
5.14       plus an additional 3.0 percent of that average salary for each year of service in excess of 15  
5.15       years.

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

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

6.1        Sec. 6. Minnesota Statutes 2020, section 353.656, subdivision 5a, is amended to read:

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

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

6.7              (1) at the end of the month in which the member:

6.8              (1) reaches normal retirement age; or

6.9              (2) if the disability benefit is payable for a 60-month period as determined under  
6.10        subdivisions 1 and 3, as applicable, the first of the month following the expiration of the  
6.11        60-month period; or

6.12        (3) (2) if the disabled member so chooses, at the end of the month in which the member  
6.13        has elected to convert to an early retirement annuity under section 353.651, subdivision 4.

6.14        (c) If the police and fire plan member continues to be disabled when the disability benefit  
6.15        terminates under this subdivision, the member is deemed to be retired. The individual is  
6.16        entitled to receive a normal retirement annuity or an early retirement annuity under section  
6.17        353.651, whichever is applicable, as further specified in paragraph (d) or (e). If the individual  
6.18        did not previously elect an optional annuity under subdivision 1b, paragraph (a), the  
6.19        individual may elect an optional annuity under subdivision 1b, paragraph (b).

6.20        (d) A member of the police and fire plan who is receiving a disability benefit under this  
6.21        section may, upon application, elect to receive an early retirement annuity under section  
6.22        353.651, subdivision 4, at any time after attaining age 50, but must convert to a retirement  
6.23        annuity no later than the end of the month in which the disabled member attains normal  
6.24        retirement age. An early retirement annuity elected under this subdivision must be calculated  
6.25        on the disabled member's accrued years of service and average salary as defined in under  
6.26        section 353.01, subdivision 17a, and when elected, the member is deemed to be retired.

6.27        (e) When an individual's disability benefit terminates under paragraph (b), clause (1) or  
6.28        (2), and is recalculated as a retirement annuity, the annuity must be based on clause (1) or  
6.29        (2), whichever provides the greater amount:

6.30              (1) the benefit amount at the time of reclassification, including all prior adjustments  
6.31        provided under Minnesota Statutes 2008, section 11A.18, through January 1, 2009, and  
6.32        thereafter as provided in section 356.415; or

7.1       (2) a benefit amount computed on the member's actual years of accrued allowable service  
7.2       credit and the law in effect at the time the disability benefit first accrued, plus any increases  
7.3       that would have applied since that date under Minnesota Statutes 2008, section 11A.18,  
7.4       through January 1, 2009, and thereafter as provided in section 356.415.

7.5       **Sec. 7. EFFECTIVE DATE.**

7.6       Sections 1 to 6 are effective July 1, 2021, and apply to disability applications received  
7.7       by the executive director on or after that date.