

352B.10 DISABILITY BENEFITS.

Subdivision 1. **Injuries; payment amounts.** A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty, is entitled to receive disability benefits while disabled. The benefits must be paid in monthly installments. The benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

Subd. 2. **Disabled while not on duty.** If a member with at least one year of service becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment, the individual is entitled to disability benefits. The benefit must be computed as if the individual were 55 years old at the date of disability and the annuity was payable under section 352B.08. If a disability under this subdivision occurs after one year of service but before 15 years of service, the disability benefit must be computed as though the individual had credit for 15 years of service.

Subd. 3. **Annual and sick leave; work at lower pay.** No member is entitled to receive a disability benefit payment when the member has unused annual leave or sick leave, or under any other circumstances when, during the period of disability, there has been no impairment of salary. If the disabilitant resumes gainful employment, the disability benefit must be continued in an amount which, when added to current earnings, does not exceed the salary rate received by the person at the date of disability, which must be adjusted over time by the percentage increase in United States average wages used by the Social Security Administration in calculating average indexed monthly earnings for the old age, survivors, and disability insurance programs for the same period.

Subd. 4. **Proof of disability.** (a) No disability benefits may be paid unless adequate proof is furnished to the executive director of the existence of the disability.

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

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disabilitant to submit proof of the continuance of the disability claimed.

Subd. 5. **Optional annuity.** A disabilitant may elect, in lieu of spousal survivorship coverage under section 352B.11, subdivisions 2b and 2c, the normal disability benefit or an optional

annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days before reaching age 65 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age 65 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

History: 1943 c 637 s 8; 1957 c 869 s 6; 1959 c 642 s 5; 1961 c 493 s 3; 1965 c 889 s 4; 1969 c 693 s 3; 1973 c 178 s 11; 1973 c 755 s 3; 1975 c 359 s 23; 1977 c 429 s 16; 1981 c 68 s 14; 1Sp1985 c 7 s 8; 1986 c 444; 1987 c 229 art 7 s 1; 1989 c 319 art 1 s 11; art 17 s 8,9; 1992 c 464 art 1 s 40; 1993 c 307 art 2 s 12-14; 1995 c 262 art 3 s 3; 1996 c 438 art 2 s 3; 1997 c 233 art 1 s 33; 1Sp2001 c 10 art 3 s 15; 2002 c 392 art 11 s 52; 2004 c 267 art 8 s 8-12; art 9 s 6