

**353E.06 DISABILITY BENEFITS.**

Subdivision 1. **Duty disability qualification requirements.** A local government correctional employee who is determined to qualify for a duty disability as defined in section 353E.001, subdivision 1, is entitled to a disability benefit. The disability benefit must be based on covered service under this chapter only and is an amount equal to 47.5 percent of the average salary defined in section 353E.04, subdivision 2, plus an additional percent equal to that specified in section 356.315, subdivision 5a, for each year of covered service under this chapter in excess of 25 years.

Subd. 2. **Regular disability qualification requirements.** A local government correctional employee who has at least one year of covered service under this chapter and who is determined to qualify for a regular disability benefit as defined in section 353E.001, subdivision 4, is entitled to a disability benefit based on covered service under this chapter. The disability benefit must be computed in the same manner as an annuity under section 353E.04, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Subd. 3. **Optional annuity.** A disabled local government correctional employee may elect the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity must be made before the commencement of payment of the disability benefit and is effective on the date on which the disability benefit begins to accrue as provided in section 353.33, subdivision 2. Upon becoming effective, the optional annuity begins to accrue on the same date as provided for the disability benefit.

Subd. 4. **Disability benefit application; accrual of benefits.** (a) Procedures for the application process and determining eligibility for disability benefits are defined in section 353.031.

(b) The 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 the 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 salary ceased, whichever is latest. 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 benefits or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary.

(c) No payment may accrue beyond the end of the month in which entitlement has terminated. If the disabled employee dies before negotiating the check for the month in which death occurs, payment must be made to the optional annuitant or beneficiary.

Subd. 5. **Disability benefit termination.** The disability benefit paid to a disabled local government correctional employee terminates at the end of the month in which the employee reaches age 65. If the disabled local government correctional employee is still disabled when the employee reaches age 65, the employee is deemed to be a retired employee and, if the employee had elected an optional annuity under subdivision 3, must receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 3, the employee may elect either to receive a normal retirement annuity computed in the manner provided in section 353E.04, subdivision 3, or to receive an optional annuity as provided in section 353.30, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made within 90 days before attaining the age of 65 years, or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later.

Subd. 6. **Resumption of employment.** If a disabled employee resumes a gainful occupation from which earnings are less than salary received at the date of disability or the salary currently paid for similar positions, or should the employee be entitled to receive workers' compensation benefits, the disability benefit must be continued in an amount that, when added to such earnings and workers' compensation benefits, does not exceed the salary received at the date of disability or 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.

Subd. 7. **Combined service disability benefit.** If the employee is entitled to receive a disability benefit as provided in subdivision 1 or 2 and has credit for less covered correctional service than the length of service upon which the correctional disability benefit is based, and also has credit for public employees retirement plan service, the employee is entitled to a disability benefit or deferred retirement annuity based on the regular plan service only for the service that, when combined with the correctional service, exceeds the number of years on which the correctional disability benefit is based. The disabled employee who also has credit for regular plan service must in all respects qualify under section 353.33 to be entitled to receive a disability benefit based on the public employees retirement plan service, except that the service may be combined to satisfy length of service requirements. Any deferred annuity to which the employee may be entitled based on public employees retirement plan service must be augmented as provided in section 353.71 while the employee is receiving a disability benefit under this section.

Subd. 8. **Continuing benefit eligibility.** Continuing eligibility for a disability benefit is subject to section 353.031, subdivision 8.

Subd. 9. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

**History:** 1999 c 222 art 2 s 12; 2002 c 392 art 11 s 52; 2007 c 134 art 4 s 32-35; 2009 c 169 art 1 s 58