

CHAPTER 352B

STATE PATROL RETIREMENT FUND

352B.011	DEFINITIONS.	352B.087	STATE-AUTHORIZED PURCHASE OF SERVICE CREDIT FOR PERIODS OF MILITARY SERVICE.
352B.013	AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT PURCHASE PROCEDURE.	352B.10	DISABILITY BENEFITS.
352B.02	STATE PATROL RETIREMENT FUND.	352B.101	APPLICATION FOR DISABILITY BENEFIT.
352B.03	OFFICERS, DUTIES.	352B.102	APPLICATION FOR PSYCHOLOGICAL CONDITION TREATMENT.
352B.05	INVESTMENTS.	352B.103	PSYCHOLOGICAL CONDITION TREATMENT ACCOUNT.
352B.07	ACTIONS BY OR AGAINST THE GOVERNING BOARD OF THE RETIREMENT PLAN.	352B.105	TERMINATION OF DISABILITY BENEFITS.
352B.071	EXEMPTION FROM PROCESS.	352B.11	RETIREES.
352B.08	BENEFITS.	352B.115	REEMPLOYMENT.
352B.085	SERVICE CREDIT FOR CERTAIN DISABILITY LEAVES OF ABSENCE.	352B.25	CONTINUING APPROPRIATION; PAYMENT OF PENSION FUNDS.
352B.086	FEDERALLY PROTECTED PURCHASE OF SERVICE CREDIT FOR PERIODS OF MILITARY SERVICE.	352B.251	DIRECT STATE AID.
		352B.27	SAVINGS CLAUSE.

352B.01 Subdivision 1. [Repealed, 2009 c 169 art 2 s 24]

Subd. 2. [Repealed, 2009 c 169 art 2 s 24]

Subd. 2a. [Repealed, 1993 c 307 art 7 s 1]

Subd. 3. [Repealed, 2009 c 169 art 2 s 24]

Subd. 3a. MS 2006 [Repealed, 2000 c 461 art 4 s 4; 1Sp2003 c 12 art 6 s 3; 2004 c 267 art 17 s 7; 2005 c 156 art 4 s 10; 1Sp2005 c 8 art 2 s 4]

Subd. 3b. [Repealed, 2009 c 169 art 2 s 24]

Subd. 4. [Repealed, 2009 c 169 art 2 s 24]

Subd. 5. [Repealed, 1975 c 368 s 51]

Subd. 6. [Repealed, 2009 c 169 art 2 s 24]

Subd. 7. [Repealed, 2009 c 169 art 2 s 24]

Subd. 8. [Repealed, 1983 c 128 s 36]

Subd. 9. [Repealed, 2009 c 169 art 2 s 24]

Subd. 10. [Repealed, 2009 c 169 art 2 s 24]

Subd. 11. [Repealed, 2009 c 169 art 2 s 24]

352B.011 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Accumulated deductions.** "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in place of deductions and credited to the member's individual account as permitted by law without interest.

Subd. 3. **Allowable service.** (a) "Allowable service" means:

(1) service in a month during which a member is paid a salary from which a member contribution is deducted, deposited, and credited in the State Patrol retirement fund;

(2) any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtains credit by payment to the fund under section 352B.013; and

(3) eligible periods of uniformed service for which the member obtained service credit by making the payment required under section 352B.086 to the fund.

(b) Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or until the date of a return to employment if in conformity with section 352B.085.

Subd. 3a. **APRN.** "APRN" means an individual licensed as an advanced practice registered nurse by the Board of Nursing as defined in section 148.171, subdivision 3, who provides services to a member or an applicant that are within the scope of the APRN's professional licensure.

Subd. 4. **Average monthly salary.** (a) Subject to the limitations of section 356.611, "average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years.

(b) The salary used for the calculation of "average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. "Average monthly salary" includes the salary of the member during the period of covered employment rendered after reaching the allowable service credit limit of section 352B.08, subdivision 2, paragraph (b). The salary used for the calculation of "average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

Subd. 5. **Department head.** "Department head" means the head of any department, institution, or branch of the state service that directly pays salaries from state funds to a member who prepares, approves, and submits salary abstracts of employees to the commissioner of Minnesota Management and Budget.

Subd. 6. **Dependent child.** "Dependent child" means an individual who is a natural or adopted unmarried child of a deceased member and is under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member unless a parent-child relationship does not exist under section 524-2.120, subdivision 10.

Subd. 7. **Duty disability.** "Duty disability" means a physical or psychological condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by the person as a member of the State Patrol retirement fund, and that is the direct result of any injury incurred during, or a disease arising out of, the performance of normal duties or the actual

performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the State Patrol retirement fund.

Subd. 8. **Fund.** "Fund" means the State Patrol retirement fund.

Subd. 9. **Less frequent duties.** "Less frequent duties" means tasks which are designated in the member's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the member's position.

Subd. 10. **Member.** "Member" means:

(1) a State Patrol member currently employed under section 299D.03 by the state, who is a peace officer under section 626.84, and whose salary or compensation is paid out of state funds;

(2) a conservation officer employed under section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds;

(3) a crime bureau officer who was employed by the crime bureau and was a member of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under Minnesota Statutes 2009, section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(4) a public safety employee who is a peace officer under section 626.84, subdivision 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling Enforcement under section 299L.01;

(5) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed by the Office of Special Investigations of the Department of Corrections and who is a peace officer under section 626.84;

(6) an employee of the Department of Commerce defined as a peace officer in section 626.84, subdivision 1, paragraph (c), who is employed by the Commerce Fraud Bureau under section 45.0135 after January 1, 2005, and who has not attained the mandatory retirement age specified in section 43A.34, subdivision 4;

(7) an employee of the Department of Public Safety, who is a licensed peace officer under section 626.84, subdivision 1, paragraph (c), and is employed as the statewide coordinator of the Violent Crime Coordinating Council; and

(8) an individual who is a member under any of clauses (1) to (7) on the date the individual applies for duty disability benefits based on a psychological condition under section 352B.102 continues to be a member even if the individual is later transferred to or accepts employment with the individual's employing entity in a position that is not a position described in clauses (1) to (7).

Subd. 11. **Normal duties.** "Normal duties" means specific tasks which are designated in the member's job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

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

Subd. 13. **Surviving spouse.** "Surviving spouse" means a member's or former member's legally married spouse at the time of death.

Subd. 14. **Total and permanent duty disability.** "Total and permanent duty disability" means a physical or psychological condition that is expected to prevent a member, for a period of not less than 12 months, from engaging in any substantial gainful activity and that is the direct result of great bodily harm incurred during the performance of duties that are specific to protecting the property and personal safety of others and that present inherent dangers specific to the positions covered by the State Patrol retirement fund.

History: 2009 c 169 art 2 s 15; 2010 c 359 art 2 s 8; 2010 c 383 s 7; 2013 c 111 art 2 s 21; art 9 s 1; 2013 c 135 art 3 s 22; 2015 c 65 art 3 s 15; 2015 c 68 art 13 s 12; 2020 c 108 art 5 s 10,11; 2022 c 65 art 5 s 4; 2023 c 48 s 3,4

352B.013 AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT PURCHASE PROCEDURE.

Subdivision 1. **Application.** This section specifies the procedure for purchasing service credit in the State Patrol retirement plan for authorized leaves of absence under section 352B.011, subdivision 3, unless an alternative payment procedure is specified in law for a particular form of leave or break in service.

Subd. 2. **Purchase procedure.** (a) An employee covered by the plan specified in this chapter may purchase credit for allowable service in the plan for a period specified in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the date the employee returned to work following the authorized leave, the payment amount is equal to the employee and employer contribution rates specified in section 352B.02 at the end of the leave period multiplied by the employee's hourly rate of salary on the date of return from the leave of absence and by the days and months of the leave of absence for which the employee is eligible for allowable service credit. The payment must include compound interest at the applicable monthly rate or rates specified in section 356.59, subdivision 2, from the last day of the leave period until the last day of the month in which payment is received. If payment is received by the executive director after one year from the date the employee returned to work following the authorized leave, the payment amount is the amount determined under section 356.551. Payment under this paragraph must be made before the date of termination from public employment covered under this chapter.

(c) If the employee terminates employment covered by this chapter during the leave or following the leave rather than returning to covered employment, payment must be received by the executive director within 30 days after the termination date. The payment amount is equal to the employee and employer contribution rates specified in section 352B.02 on the day prior to the termination date, multiplied by the employee's hourly rate of salary on that date and by the days and months of the leave of absence prior to termination.

History: 2010 c 359 art 2 s 9; 2015 c 68 art 3 s 4; 2018 c 211 art 6 s 9

352B.02 STATE PATROL RETIREMENT FUND.

Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is established. Its membership consists of all persons defined in section 352B.011, subdivision 10.

Subd. 1a. **Member contributions.** (a) The member contribution is the following percentage of the member's salary:

from July 1, 2014, to June 30, 2016	13.4
from July 1, 2016, to June 30, 2018	14.4
from July 1, 2018, to June 30, 2020	14.9
after June 30, 2020	15.4

(b) These contributions must be made by deduction from salary as provided in section 352.04, subdivision 4.

(c) Contribution increases under paragraph (a) must be paid starting the first day of the first full pay period after the effective date of the increase.

Subd. 1b. **Salary deductions.** Member contribution amounts must be deducted each pay period by the department head, who shall have the total amount of the deductions paid to the commissioner of management and budget for deposit in the State Patrol retirement fund, and have a detailed report of all deductions made each pay period to the executive director of the Minnesota State Retirement System.

Subd. 1c. **Employer contributions and supplemental employer contribution.** (a) In addition to member contributions, department heads shall pay a sum equal to the specified percentage of the salary upon which deductions were made, which constitutes the employer contribution to the fund as follows:

from July 1, 2014, to June 30, 2016	20.1
from July 1, 2016, to June 30, 2018	21.6
from July 1, 2018, to June 30, 2019	22.35
after June 30, 2019	23.1

(b) Department contributions must be paid out of money appropriated to departments for this purpose.

(c) Contribution increases under paragraph (a) must be paid starting the first day of the first full pay period after the effective date of the increase.

(d) Effective July 1, 2018, department heads shall pay a supplemental employer contribution. The supplemental contribution is 1.75 percent of the salary upon which deductions are made from July 1, 2018, through June 30, 2019; three percent of the salary upon which deductions are made from July 1, 2019, through June 30, 2020; five percent of the salary which deductions are made from July 1, 2020, through June 30, 2021; and seven percent of the salary upon which deductions are made thereafter. The supplemental contribution must be paid starting the first day of the first full pay period after June 30, 2018. The supplemental contribution rate of seven percent remains in effect until, for three consecutive years, the market value of the assets of the State Patrol retirement plan of the Minnesota State Retirement System equals or exceeds 110 percent of the actuarial accrued liability of the plan as determined by the actuary retained under section 356.214. The expiration of the supplemental employer contribution is effective the first day of the first full pay period of the fiscal year immediately following the issuance of the third actuarial valuation upon which the expiration is based.

Subd. 1d. **Fund revenue and expenses.** The amounts provided for in this section must be credited to the State Patrol retirement fund. All money received must be deposited by the commissioner of management

and budget in the State Patrol retirement fund. The fund must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities provided in this chapter.

Subd. 1e. **Audit; actuarial valuation.** (a) The legislative auditor shall audit the fund.

(b) Any actuarial valuation of the fund required under section 356.215 must be prepared by the actuary retained under section 356.214.

(c) Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuation or experience studies must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Subd. 2. [Repealed, 1983 c 128 s 36]

Subd. 3. **Correction of plan coverage errors.** If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the State Patrol retirement plan and any other plan specified in section 356.637, that section applies.

History: 1943 c 637 s 1; 1947 c 577 s 1; 1949 c 627 s 2; 1957 c 869 s 1; 1959 c 642 s 1; 1961 c 493 s 1; 1965 c 889 s 1; 1967 c 244 s 1; 1969 c 693 s 1; 1969 c 1129 art 1 s 13 subd 2; 1973 c 178 s 2; 1973 c 755 s 1; 1976 c 163 s 62; 1978 c 646 s 1; 1981 c 37 s 2; 1981 c 224 s 61,274; 1982 c 397 s 1; 1983 c 128 s 20; 1984 c 564 s 17; 1987 c 229 art 7 s 1; art 11 s 1; 1987 c 259 s 22; 1990 c 591 art 2 s 4; 1995 c 262 art 3 s 1; 1997 c 233 art 1 s 29,30; 2003 c 112 art 2 s 50; 2004 c 223 s 2; 1Sp2005 c 8 art 10 s 28; 2006 c 271 art 1 s 6,7; 2009 c 101 art 2 s 109; 2009 c 169 art 1 s 23; art 2 s 16; art 4 s 3,4; 2010 c 359 art 1 s 16; art 2 s 10; 2013 c 111 art 9 s 2,3; 2018 c 211 art 7 s 6,7; 2023 c 45 art 3 s 4; 2024 c 102 art 8 s 14; 2025 c 37 art 16 s 2

352B.021 [Repealed, 1975 c 368 s 51]

352B.03 OFFICERS, DUTIES.

Subdivision 1. **Officers.** The policy-making, management, and administrative functions governing the operation of the State Patrol retirement fund are vested in the board of directors and executive director of the Minnesota State Retirement System with duties, authority, and responsibility as provided in chapter 352. Fiduciary activities of the fund must be undertaken in a manner consistent with chapter 356A.

Subd. 2. **Duties of commissioner of management and budget.** The commissioner of management and budget is ex officio treasurer of the State Patrol retirement fund. The commissioner of management and budget's general bond to the state covers all liability for actions as treasurer of the fund.

All money of the fund received by the commissioner of management and budget under this chapter must be set aside in the state treasury and credited to the State Patrol retirement fund. The commissioner of management and budget shall transmit, monthly, to the director, a detailed statement showing all credits to and disbursements from the fund. The commissioner of management and budget shall disburse money from the fund only upon vouchers signed by the director.

History: 1943 c 637 s 2; 1973 c 178 s 3; 1973 c 492 s 14; 1975 c 368 s 37,38; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 21; 1986 c 444; 1987 c 229 art 7 s 1; 1989 c 319 art 8 s 13; 2003 c 112 art 2 s 40; 2009 c 101 art 2 s 109

352B.04 [Repealed, 1975 c 368 s 51]

352B.05 INVESTMENTS.

The State Board of Investment may invest and reinvest any portions of the State Patrol retirement fund not needed for immediate purposes. The executive director of the Minnesota State Retirement System shall determine what funds may be invested. Money may be invested in securities authorized as legal investments for the Minnesota State Retirement System. The state board may sell, convey, and exchange securities and invest and reinvest the funds when it deems it desirable to do so. The state board shall sell securities upon request from the executive director when the executive director determines funds are needed for its purposes. Provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the Minnesota State Retirement System apply to the accounting, purchase, and sale of securities for the State Patrol retirement fund.

History: 1943 c 637 s 4; 1961 c 380 s 4; 1965 c 305 s 3; 1973 c 178 s 5; 1978 c 562 s 2; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 22; 1987 c 229 art 7 s 1; 2022 c 65 art 9 s 4

352B.06 [Repealed, 1983 c 128 s 36]

352B.061 [Repealed, 2Sp1981 c 1 s 8]

352B.07 ACTIONS BY OR AGAINST THE GOVERNING BOARD OF THE RETIREMENT PLAN.

With respect to the State Patrol retirement plan, the board of the Minnesota State Retirement System may sue or be sued in the name of the board of directors of the state retirement system. In all actions brought by or against it, the board shall be represented by the attorney general. The attorney general shall also be the legal adviser for the board. Venue of all actions is in the Ramsey County District Court.

History: 1943 c 637 s 6; 1983 c 128 s 23; 1987 c 229 art 7 s 1; 2015 c 68 art 13 s 13

352B.071 EXEMPTION FROM PROCESS.

The provisions of section 356.401 apply to the State Patrol retirement plan.

History: 1973 c 178 s 8; 1983 c 128 s 24; 1984 c 547 s 5; 1987 c 157 s 4; 1987 c 229 art 7 s 1; 1997 c 203 art 6 s 92; 1Sp2005 c 8 art 10 s 29

352B.075 [Repealed, 1981 c 224 s 276]

352B.08 BENEFITS.

Subdivision 1. **Eligibility; when to apply; accrual.** (a) Every member who is credited with three or more years of allowable service if first employed before July 1, 2013, or with at least ten years of allowable service if first employed after June 30, 2013, is entitled to separate from state service and upon becoming 50 years old, is entitled to receive a life annuity, upon separation from state service.

(b) Members must apply for an annuity in a form and manner prescribed by the executive director.

(c) No application may be made more than 60 days before the date the member is eligible to retire by reason of both age and service requirements.

(d) An annuity begins to accrue no earlier than 180 days before the date the application is filed with the executive director.

Subd. 1a. **Application procedure.** The application for a benefit or refund made under this chapter must comply with section 352.115, subdivision 7a.

Subd. 2. **Normal retirement annuity.** (a) The annuity must be paid in monthly installments. The annuity is equal to the amount determined by multiplying the average monthly salary of the member by 3.0 percent for each year of allowable service and prorated for additional completed months of allowable service, unless restricted under paragraph (b).

(b) Allowable service in excess of 33 years must not be used in computing the annuity. This restriction does not apply to any member who has at least 28 years of allowable service before July 1, 2013.

(c) When the annuity commences, any member contributions attributable to allowable service not used to compute the annuity due to the restrictions in paragraph (b) must be refunded using procedures specified in section 352B.11, subdivision 1.

Subd. 2a. **Early retirement.** Any member who has become at least 50 years old and who has at least three years of allowable service if first employed before July 1, 2013, or who has at least ten years of allowable service if first employed after June 30, 2013, is entitled upon application to a reduced retirement annuity equal to the annuity calculated under subdivision 2, reduced by one-tenth of one percent for each month that the member is under age 55 at the time of retirement, if the effective date of retirement is before July 1, 2015. If the effective date of retirement is after June 30, 2015, the reduction is 0.34 percent for each month that the member is under age 55 at the time of retirement.

Subd. 2b. **Computation of deferred annuity.** (a) The deferred annuity of any former member must be augmented from the first day of the month following the termination of active service, or July 1, 1971, whichever is later, to the effective date of retirement.

(b) For a person who became an employee before July 1, 2006, the annuity must be augmented at the following rate or rates, compounded annually:

- (1) five percent until January 1, 1981;
- (2) three percent from January 1, 1981, until December 31, 2011;
- (3) two percent from January 1, 2012, until December 31, 2018; and
- (4) after December 31, 2018, the deferred annuity must not be augmented.

(c) For a person who became an employee after June 30, 2006, the annuity must be augmented at the following rate or rates, compounded annually:

- (1) 2.5 percent until December 31, 2011;
- (2) two percent from January 1, 2012, until December 31, 2018; and
- (3) after December 31, 2018, the deferred annuity must not be augmented.

(d) The mortality table and investment return assumption used to compute the annuity must be those in effect when the member files application for annuity.

Subd. 3. **Optional annuity forms.** (a) In lieu of the single life annuity provided in subdivision 2, the member or former member may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if

after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the investment return assumption specified in section 356.215, subdivision 8.

(b) For purposes of computing a joint and survivor annuity, the investment return assumption specified in section 356.461 must be used, rather than the investment return specified in section 356.215, subdivision 8.

(c) The board shall obtain the written recommendation of the actuary retained under section 356.214. These recommendations shall be a part of the permanent records of the board.

Subd. 4. Postretirement adjustment eligibility. A retirement annuity under this section is eligible for postretirement adjustments under section 356.415.

History: 1943 c 637 s 7; 1947 c 577 s 2; 1949 c 627 s 1; 1953 c 453 s 1-3; 1957 c 869 s 2-5; 1959 c 642 s 2-4; 1961 c 493 s 2; 1965 c 889 s 2,3; 1967 c 244 s 2; 1969 c 693 s 2; 1971 c 278 s 1; 1973 c 178 s 10; 1973 c 755 s 2; 1977 c 429 s 15; 1978 c 562 s 4; 1980 c 600 s 6; 1981 c 224 s 62; 1982 c 397 s 2; 1983 c 49 s 1; 1983 c 128 s 25; 1983 c 286 s 4; 1986 c 444; 1987 c 229 art 7 s 1; art 11 s 1; 1987 c 259 s 23; 1987 c 372 art 9 s 7; 1989 c 319 art 1 s 10; art 13 s 25; art 17 s 6,7; 1990 c 570 art 12 s 13,14; 1993 c 307 art 1 s 24,25; 1994 c 528 art 1 s 10; 1995 c 262 art 3 s 2; 1997 c 233 art 1 s 31,32; 1999 c 222 art 14 s 1; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47; 2009 c 169 art 1 s 24; 2010 c 359 art 1 s 17,18; 2013 c 111 art 4 s 5; art 9 s 4-6; 2014 c 296 art 4 s 4; 2018 c 211 art 1 s 7; 1Sp2019 c 8 art 1 s 10; art 8 s 23; 2023 c 47 art 1 s 1

352B.085 SERVICE CREDIT FOR CERTAIN DISABILITY LEAVES OF ABSENCE.

A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence under section 352B.011, subdivision 3, paragraph (b), may make payment to the fund for the difference between salary received, if any, and the salary that the member would normally receive if the member was not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the applicable annual rate or rates specified in section 356.59, subdivision 2, and must be completed within one year of the member's return from the leave of absence.

History: 2009 c 169 art 2 s 17; 2015 c 68 art 3 s 5; 2018 c 211 art 6 s 10

352B.086 FEDERALLY PROTECTED PURCHASE OF SERVICE CREDIT FOR PERIODS OF MILITARY SERVICE.

(a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed services within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the member contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this section are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this section.

(e) To receive allowable service credit under this section, the equivalent member contributions specified in paragraph (b) must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than three years, the contributions required under paragraph (b) to receive service credit must be transmitted to the fund within three years from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this section. Interest must be computed at the applicable annual rate or rates specified in section 356.59, subdivision 2, compounded annually, from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

History: 2009 c 169 art 2 s 18; 2015 c 68 art 3 s 6; 2018 c 211 art 6 s 11; 2022 c 65 art 1 s 4

352B.087 STATE-AUTHORIZED PURCHASE OF SERVICE CREDIT FOR PERIODS OF MILITARY SERVICE.

Subdivision 1. **Service credit purchase authorized.** (a) Unless prohibited under paragraph (b), a member is eligible to purchase service credit, not to exceed five cumulative years of service credit, for one or more periods of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if:

- (1) the member has at least three years of service credit with the plan;
- (2) the duration of the member's current period of employment is at least six months; and
- (3) one of the following applies:

(i) the member's service in the uniformed services occurred before employment in a position covered by the plan; or

(ii) the member did not obtain service credit for a period of military service under section 352B.086.

(b) A service credit purchase is prohibited if:

(1) the member separated from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions; or

(2) the member has purchased or otherwise received service credit from any Minnesota public employee pension plan for the same period of service in the uniformed services.

(c) When purchasing a period of service, if the period of service in the uniformed services is one year or less, then the member must purchase the full period of service. If the period of service in the uniformed services is longer than one year, the member may purchase the full period, not to exceed five cumulative years, or may purchase a portion of the period of service. If the member purchases a portion of the period of service in the uniformed services, the portion must:

(1) not be less than one year; and

(2) be in increments of six months of service.

Subd. 2. **Application and documentation.** To purchase service credit under subdivision 1, a member must apply to the executive director to make the purchase. The application must include all necessary documentation of the member's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require. The member must submit with the application payment of the administrative fee in the amount of \$250 to cover the costs of calculating the purchase payment amount under section 356.551. If the member proceeds with the purchase, the administrative fee will be credited toward the purchase payment amount.

Subd. 3. **Purchase payment amount; service credit grant.** (a) The purchase payment amount is the amount determined under section 356.551 for the period or periods of service requested, except that, for purposes of calculating the purchase payment amount to purchase service credit for service in the uniformed services that occurred before employment in a position covered by the plan or between periods of employment in a position covered by the plan, section 356.551, subdivision 2, paragraph (c), does not apply.

(b) Service credit must be granted by the plan to the purchasing member upon the executive director's receipt of the purchase payment amount. The service credit purchased under this section may not be used for the purpose of determining a disability benefit under section 352B.10.

(c) Payment must be made before the effective date of the member's retirement.

History: 2022 c 65 art 1 s 5

352B.09 [Repealed, 1973 c 178 s 22]

352B.10 DISABILITY BENEFITS.

Subdivision 1. **Duty disability.** (a) A member who is determined to qualify for duty disability as defined in section 352B.011, subdivision 7, is entitled to receive a duty disability benefit while disabled. The benefits must be paid monthly. The duty disability benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional 3.0 percent for each year and pro rata for completed months of service in excess of 20 years, if any.

(b) Notwithstanding paragraph (a), if the member has applied for a duty disability based on a psychological condition, 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 event or the onset of the mental illness or of another position with the employer which provides salary and employer-provided benefits, including pension benefits, that are equal to or greater than those for the position held by the employee on the date of the injury, event, or onset of the mental illness.

Subd. 1a. **Total and permanent duty disability.** (a) A member who is determined to qualify for a total and permanent duty disability as defined in section 352B.011, subdivision 14, is entitled to receive a monthly disability benefit in an amount equal to 99 percent of the member's average monthly salary.

(b) The benefit of a member receiving a total and permanent duty disability benefit whose condition is found to no longer qualify as a total and permanent duty disability but whose condition continues to qualify as a duty disability under section 352B.011, subdivision 7, must be recalculated as a duty disability benefit under subdivision 1. Payment of the total and permanent duty disability benefit must cease following the last monthly payment occurring before 60 days after the executive director notifies the member that the member is no longer eligible for total and permanent duty disability benefits. Payment of the recalculated duty disability benefit must commence on the first day of the month following 60 days after the notice by the executive director.

Subd. 2. **Regular disability benefit.** A member with at least one year of service who qualifies for a regular disability benefit as defined in section 352B.011, subdivision 12, is entitled to a regular disability benefit. The regular disability benefit must be computed as if the individual were 55 years old at the date of disability and as if the annuity was payable under section 352B.08. If a regular disability under this subdivision occurs after one year of service but before 15 years of service, the regular disability benefit must be computed as though the individual had credit for 15 years of service.

Subd. 2a. **Applying for benefits; accrual.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit begins to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 180 days before the date the application is filed. A member who is terminated must file a written application in an office of the system or with a person authorized by the executive director. Except as otherwise specified under section 352B.102, applications must comply with section 352.113, subdivision 2, paragraph (b).

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 the member provides adequate proof 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, an APRN, or a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist. Adequate proof of a disability based on a psychological condition, as defined under section 352B.102, subdivision 1, clause (6), must include the medical reports and assessments required under section 352B.102.

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disability benefit recipient 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, subdivision 2b, 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 may be made before the commencement of the payment of the disability benefit. If the disabilitant did not select an optional annuity at the time of application, the disabilitant may select an optional annuity under this section within 90 days before reaching age 55 or within 90 days 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 55 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

Subd. 6. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Subd. 7. **Disabilitant earnings reports.** Disability benefit recipients must report all earnings from reemployment and income from workers' compensation to the system annually by May 15 in a format prescribed by the executive director. If the form is not submitted by June 15, benefits must be suspended effective July 1. If the form deemed acceptable by the executive director is received after the June 15 deadline, benefits shall be reinstated retroactive to July 1.

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; 2009 c 169 art 1 s 25; art 2 s 19-22; 2013 c 111 art 2 s 22; art 4 s 6; art 9 s 7; 2014 c 275 art 2 s 25; 2015 c 68 art 12 s 2; 2020 c 108 art 5 s 12; 2022 c 65 art 5 s 5; 2023 c 48 s 5-8

352B.101 APPLICATION FOR DISABILITY BENEFIT.

(a) Except as otherwise specified under section 352B.102 and paragraph (b), a member claiming a disability benefit must file a written application for benefits in the office of the system in a form and manner prescribed by the executive director. The member shall provide medical or psychological evidence to support the application. The benefit begins to accrue the day following the start of disability or the day following the last day for which the member was paid, whichever is later, but not earlier than 180 days before the date the application is filed with the executive director.

(b) Notwithstanding any law to the contrary, an employee, as defined in section 352B.102, subdivision 1, clause (2), who applies for a duty disability benefit based on a psychological condition, as defined in section 352B.102, subdivision 1, clause (6), is not eligible for duty disability benefits under this chapter until the employee has satisfied the additional procedure, including all completion of treatment requirements under section 352B.102.

History: 1983 c 128 s 26; 1987 c 229 art 7 s 1; 1993 c 307 art 1 s 26; 1Sp2001 c 10 art 3 s 16; 2023 c 48 s 9

352B.102 APPLICATION FOR PSYCHOLOGICAL CONDITION TREATMENT.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given:

(1) "mental illness" means the diagnosis of a mental illness by a mental health professional, by meeting the criteria for a condition or conditions included in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;

(2) "employee" means an individual diagnosed with a mental illness who is a:

(i) current member under section 352B.011, subdivision 10; or

(ii) former member under section 352B.011, subdivision 10, within 18 months of termination of employment;

(3) "employing entity" means the entity that pays a state employee's salary and remits retirement contributions;

(4) "mental health professional" has the meaning given in section 245I.02, subdivision 27;

(5) "peace officer" has the meaning given in section 299A.465, subdivision 5, paragraph (a);

(6) "psychological condition" means a mental illness as defined in clause (1); and

(7) "treatment" includes but is not limited to active participation in psychological, psychopharmaceutical, and functional neurological approaches and active participation in the International Association of Fire Fighters Center of Excellence for Behavioral Health Treatment and Recovery. Treatment includes utilization of multiple treatment modalities, including chemical dependency treatment when indicated, and evidence-based trauma treatment.

Subd. 2. **Application; dual diagnosis.** (a) Notwithstanding any law to the contrary, and except as provided in paragraph (b), the procedure in this section applies to an application for a duty disability by an employee based on the employee's psychological condition.

(b) The additional procedure in this section does not apply to a duty disability application under paragraph (a) that is also based on a dual diagnosis of a physical condition. An employee with a dual diagnosis may, but is not required to, seek treatment under subdivisions 4 and 7, subject to the procedure in this section.

Subd. 3. **Approval.** (a) An employee who applies for treatment of a psychological condition that was a result of the performance of duties related to the employee's occupation must receive approval for psychological treatment as provided under this subdivision.

(b) The executive director shall grant approval to an employee who submits, in the form and manner specified by the executive director:

(1) a report by a mental health professional diagnosing the employee with a mental illness and finding that the employee is currently unable to perform the normal duties of the position held by the employee on the date of the injury, event, or onset of the mental illness on a full- or part-time basis; and

(2) documentation from the employer certifying the dates the employee was on duty in a position covered under the State Patrol plan.

(c) An employee who receives approval under this subdivision is not considered disabled for the purposes of a duty disability under section 352B.10, unless the employee completes the additional requirements under this section, receives final confirmation under subdivision 6, and applies for disability benefits under section 352B.101 before receiving duty disability benefits or related benefits.

(d) Within six business days after the application has been received by the executive director, the executive director must notify an employing entity electronically and by mail that an application for treatment of a psychological condition has been submitted by an employee and request the certification required under paragraph (b), clause (2), from the employing entity.

(e) An employer shall submit the certification required under paragraph (b), clause (2), within five business days of an employee's application, and the employee shall receive approval no later than 14 business days after the employee's application is received by the executive director, whether or not the employer's certification has been submitted. Nothing in this paragraph shall delay the treatment of the psychological condition of the employee.

Subd. 4. Treatment required. (a) Except as provided in paragraph (f), an employee who receives approval under subdivision 3 shall complete up to 24 consecutive weeks of active treatment modalities for the employee's diagnosed mental illness, as provided under this subdivision, before a final confirmation can be made under subdivision 6, paragraph (a). An employee's treatment shall be at the direction of a mental health professional using treatment modalities indicated for the treatment of the diagnosed mental illness. An employee shall not be penalized for an interruption in active, consecutive treatment that is not initiated by or resulting from an intentional action of the employee. Subject to the limit under subdivision 9, the employing entity shall pay for the treatment costs to the extent not paid for by the employee's health insurance and may seek reimbursement from the commissioner of public safety.

(b) The employee's mental health professional must assess the employee's progress in treatment monthly and at the end of the 24 weeks or earlier, including any change to the employee's ability to return to the position held by the employee on the date of the injury, event, or onset of the mental illness, or to another position with the employing entity which provides salary and employing entity-provided benefits, including pension benefits, that are equal to or greater than those for the position held by the employee on the date of the injury, event, or onset of the mental illness. A final confirmation under subdivision 6 must be supported by a report from the employee's mental health provider containing an opinion about the employee's prognosis, the duration of the disability, and the expectations for improvement following the treatment. A report that does not contain and support a finding that the employee's disability as a result of a psychological condition will last for at least 12 months must not be relied upon to support approval of duty disability benefits.

(c) The employee may return to full- or part-time work prior to the completion of the 24 weeks of treatment if the employee's mental health professional determines that the employee is medically able to do so.

(d) The employee may return to light duty assignments, subject to availability of a position, prior to the completion of the 24 weeks of treatment, if deemed medically appropriate by the employee's mental health professional and with the employing entity's approval.

(e) A fitness for duty presumption shall apply to an employee who is cleared to return to work or light duty under paragraph (c) or (d), except as provided under subdivision 10.

(f) No employee shall be required to complete treatment under this subdivision more than three times in ten years.

Subd. 5. Continuation of salary and benefits. (a) Subject to subdivision 9, for the period that an employee is seeking psychological condition treatment approval under subdivision 3 or 6, appealing a determination thereof, or receiving treatment under subdivision 4 or 7, the employing entity shall continue:

(1) to pay, for a current employee only, the employee's full salary and employing entity-provided benefits, including any employing entity contribution to health care and retirement benefits. The employing entity must proportionally reduce the salary paid to an employee who is otherwise receiving benefits for the disability that provide compensation for all or a portion of the employee's salary for the same time period. Nothing in this paragraph requires an employing entity to pay more than 100 percent of the employee's salary;

(2) to provide health insurance benefits to the employee and to the employee's dependents, if the employee was receiving dependent coverage at the time of the injury, event, or onset of the mental illness under the employing entity's group health plan; and

(3) to provide any other employment benefits provided to the employee under the employee's currently applicable collective bargaining agreement.

(b) The treatment period required under subdivision 4 or 7 is allowable service under section 352B.011, subdivision 3.

(c) Nothing in this section prevents an employing entity from providing benefits in addition to those required by this section or otherwise affects an employee's rights with respect to any other employment benefit.

(d) If an employee is unable to receive treatment through the prescribed treatment program due to circumstances beyond the employee's control, which includes but is not limited to a lack of availability of a mental health facility or a mental health professional, the employee shall continue to receive their regular compensation, benefits, and retirement service credits until such mental health facility or mental health professional becomes available to the employee for their treatment program. The continuation of salary and benefits allowed under this paragraph must not exceed 30 days beyond the day treatment is prescribed, except that the continuation of benefits and salary may be extended beyond 30 days if written documentation from the mental health facility or mental health professional providing the treatment start date is submitted by the employee to the executive director and the employer.

Subd. 6. Termination or continuation of psychological condition treatment. (a) Following completion of treatment under subdivision 4, the executive director shall confirm the treatment requirements are satisfied and make one of the following determinations:

(1) continue the approval for an additional eight weeks for the employee to complete additional treatment, as provided under subdivision 7;

(2) terminate the psychological condition treatment because the employee is:

(i) able to return to full-time work in the position held by the employee on the date of the injury, event, or onset of the mental illness; or

(ii) able to return to another vacant full-time position with the employer which provides salary and employer-provided benefits, including pension benefits, that are equal to or greater than those for the position held by the employee on the date of the injury, event, or onset of the mental illness, as certified by the employer in the form and manner specified by the executive director; or

(3) confirm the employee has met the requirements under this section, after which the employee may apply for a duty disability benefit under section 352B.10.

(b) After confirmation and application under paragraph (a), clause (3), the executive director must approve the employee's application for disability benefits if the employee is eligible under sections 352B.10 and 352B.101, at which time the employee is entitled to receive disability benefits as provided under section 352B.10 and any related benefits. The disability benefit begins to accrue the day following the day on which the employer ceases to continue salary and benefits under subdivision 5 or the date permitted under section 352B.10, subdivision 2a, whichever is later.

(c) Following completion of the additional treatment requirements under subdivision 7, if applicable, the executive director must confirm the additional treatment requirements are satisfied, after which, the employee may apply for disability benefits. The executive director must approve the employee's application for disability benefits if the employee is eligible under sections 352B.10 and 352B.101, at which time the employee is entitled to receive disability benefits as provided under section 352B.10 and any related benefits. The disability benefit begins to accrue the day following the day on which the employer ceases to continue salary and benefits under subdivision 5 or the date permitted under section 352B.10, subdivision 2a, whichever is later.

(d) A fitness for duty presumption shall apply to an employee who is determined able to return to work as provided under paragraph (a), clause (2), except as provided under subdivision 10.

Subd. 7. Additional treatment. (a) Except as provided in paragraph (g), if, after completing the treatment required under subdivision 4, the mental health professional's report determines that the employee is making progress in treatment, and the employee's prognosis is expected to further improve with additional treatment, the executive director shall continue the employee's initial approval under subdivision 6, paragraph (a), clause (1), and the employee shall complete up to an additional eight consecutive weeks of active treatment modalities as provided under this subdivision.

(b) Treatment shall be at the direction of a mental health professional using treatment modalities indicated for the treatment of the employee's diagnosed mental illness. An employee shall not be penalized for an interruption in active, consecutive treatment that is not initiated by or resulting from an intentional action of the employee. Subject to subdivision 9, the employing entity shall pay for the treatment costs to the extent not paid for by the employee's health insurance and may seek reimbursement from the commissioner of public safety.

(c) The employee's mental health professional must assess the employee's progress in treatment at the end of eight weeks, including any change to the employee's ability to return to the position held by the employee on the date of the injury, event, or onset of the mental illness, or to another position with the employing entity which provides salary and employing entity-provided benefits, including pension benefits, that are equal to or greater than those for the position held by the employee on the date of the injury, event, or onset of the mental illness. A final confirmation under subdivision 6, paragraph (c), must be supported by an updated report from the employee's mental health provider containing an opinion about the employee's prognosis, the duration of the disability, and the expectations for improvement following the additional treatment. An updated report that does not contain and support a finding that the employee's disability as a result of a psychological condition will last for at least 12 months must not be relied upon to support approval of duty disability benefits.

(d) The employee may return to full- or part-time work prior to the completion of the eight weeks of treatment if the employee's mental health professional determines that they are medically able to do so.

(e) The employee may return to light duty assignments, subject to availability of a position, prior to the completion of the eight weeks of treatment, if deemed medically appropriate by the employee's mental health professional and with the employing entity's approval.

(f) A fitness for duty presumption shall apply to an employee who is cleared to return to work or light duty under paragraph (d) or (e), except as provided under subdivision 10.

(g) No employee shall be required to complete treatment under this subdivision more than three times in ten years.

Subd. 8. Treatment data. A "health record," as defined by section 144.291, subdivision 2, paragraph (c), arising from treatment sought under this section is classified as private data on individuals, as defined by section 13.02, subdivision 12, and must not be accessed by, shared with, or disclosed or disseminated to any individual, private entity, or government entity, including through discovery, search warrant, or subpoena, in any type of investigation or legal action.

Subd. 9. Employing entity reimbursement; limit. (a) Except as provided in paragraph (c), an employing entity subject to this section may annually apply by August 1 for the preceding fiscal year to the commissioner of public safety for reimbursement of:

- (1) the treatment costs incurred by the employing entity under subdivision 4 or 7; and
- (2) the costs incurred to continue salary and benefits as required under subdivision 5.

(b) An employing entity must apply for the reimbursement in the form and manner specified by the commissioner of public safety.

(c) No employing entity shall be required to pay for the salary, benefits, and treatment costs required under subdivisions 4, 5, and 7 for a single employee more than three times in ten years.

Subd. 10. Fitness for duty presumption. (a) An employee who is cleared or determined able to return to work or light duty under subdivision 4, paragraph (e); 6, paragraph (c); or 7, paragraph (f), is presumed fit for duty, except as follows:

(1) an employing entity may request a fitness for duty exam by an independent medical provider if the exam is completed within six weeks of the employing entity receiving the determination from the treating mental health professional, and the independent medical provider's report is completed no more than six weeks later;

(2) an employee found unfit for duty by an independent medical provider under clause (1):

(i) is presumed eligible for a duty disability, as provided under subdivision 6, paragraph (a), clause (3);
or

(ii) may appeal the independent medical provider's determination by requesting an examination under paragraph (c); and

(3) the fitness-for-duty timeline under this paragraph may be modified by mutual agreement of the employing entity and employee.

(b) Nothing in this section shall be deemed to affect the Americans with Disabilities Act, United States Code, title 42, chapter 126; the Family Medical Leave Act, United States Code, title 29, chapter 28; or the Minnesota Human Rights Act, chapter 363A.

(c) An employee who wishes to appeal the independent medical provider's determination under paragraph (a), clause (2), item (ii), may request an examination by a qualified professional selected by the employee from a panel established by mutual agreement among the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Peace and Police Officers Association, the Minnesota Professional Fire Fighters Association, the Minnesota Chiefs of Police Association, and the Minnesota Law Enforcement Association. The panel shall consist of five licensed psychiatrists or psychologists who have expertise regarding psychological or emotional disorders and who are qualified to opine as to the employee's fitness to engage in police or firefighting duties. The agreed upon panel of qualified professionals must be submitted to the executive director and made available for use in the appeal process. If the employee fails to select a qualified professional from the panel within ten days of any notice of appeal, the employing entity may select the qualified professional from the panel. A determination made by a qualified professional under this paragraph is binding and not subject to appeal. The panel may be the same panel as the panel established under section 353.032, subdivision 10.

Subd. 11. **Report.** No later than May 20, 2027, the executive director, in coordination with employing entities, employees, and mental health professionals, shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over labor and pensions regarding the impact of this section on public safety duty disability trends and costs.

Subd. 12. **Relationship to workers' compensation.** Nothing in this section shall be construed to affect the procedures for an employee's claim for workers' compensation benefits under chapter 176 or diminish or delay an employer's or insurer's obligations related to an employee's claim for workers' compensation benefits under chapter 176, except that when an employee receives psychological condition treatment pursuant to an application approved under subdivision 3, the treatment is not compensable under chapter 176.

History: 2023 c 48 s 10

352B.103 PSYCHOLOGICAL CONDITION TREATMENT ACCOUNT.

Subdivision 1. **Account created and money appropriated.** The MSRS psychological condition treatment account is created in the special revenue fund. Money in the account is appropriated to the executive director of the Minnesota State Retirement System for administration of the psychological condition treatment under section 352B.102.

Subd. 2. **Account to defray administrative costs.** The executive director of the Minnesota State Retirement System must pay the costs of administering the psychological condition treatment under section 352B.102 using the money in the MSRS psychological condition treatment account under subdivision 1 until the money is expended.

Subd. 3. **Commissioner of public safety to pay costs when account is depleted.** When the MSRS psychological condition treatment account is depleted, the executive director of the Minnesota State Retirement System may invoice the commissioner of public safety for the costs of administering the psychological condition treatment under section 352B.102. The commissioner must pay invoices submitted by the executive director of the Minnesota State Retirement System from the public safety officer's benefit account under section 299A.42 within 30 days of receipt.

History: 2023 c 48 s 11

352B.105 TERMINATION OF DISABILITY BENEFITS.

Subdivision 1. **Termination.** Disability benefits payable under section 352B.10, subdivision 1 or 2, must terminate on the date on which the disabilitant transfers status as a disabilitant to status as a retirement annuitant.

Subd. 2. **Pre-July 1, 2015, disabilitants.** The transfer date for a person whose disability benefits began to accrue before July 1, 2015, and who is still disabled is the end of the month in which the disabilitant becomes 65 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Subd. 3. **Post-June 30, 2015, disabilitants.** The transfer date for a person whose disability benefits began to accrue after June 30, 2015, and who is still disabled is the end of the month in which the disabilitant becomes 55 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later.

History: 1969 c 693 s 4; 1973 c 178 s 12; 1981 c 68 s 15; 1983 c 128 s 27; 1987 c 229 art 7 s 1; 1992 c 464 art 1 s 41; 1993 c 307 art 2 s 15; 1995 c 141 art 3 s 5; 2004 c 267 art 8 s 13; 2015 c 68 art 12 s 3; 2023 c 48 s 12

352B.11 RETIREES.

Subdivision 1. **Refund of payments.** (a) A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from the state service that entitled the member to membership.

(b) A refund under section 352B.08, subdivision 2, paragraph (c), does not result in a forfeiture of salary credit for the allowable service credit covered by the refund.

(c) In the event of the member's death, if there are no survivor benefits payable under this chapter, a refund plus interest is payable to the last designated beneficiary on a form filed with the director before death, or if no designation is filed, is payable to the member's estate. Interest under this subdivision must be calculated as provided in section 352.22, subdivision 2. To receive a refund, the application must be made on a form prescribed by the executive director.

Subd. 2. **Death; payment to dependent children; family maximums.** (a) Each dependent child, as defined in section 352B.011, subdivision 6, is entitled to receive a monthly annuity equal to ten percent of the average monthly salary of the deceased member.

(b) A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity must cease at the end of the month of separation.

(c) In addition, a payment of \$20 per month must be prorated equally to the surviving dependent children when the former member is survived by more than one dependent child.

(d) Payments for the benefit of any dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child.

(e) The monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary of the deceased member.

Subd. 2a. **Applications for survivor benefits.** An application for benefits under this section must be filed in the office of the system in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the date of death but shall not be retroactive for more than six months before the date the application is filed.

Subd. 2b. **Surviving spouse benefit.** (a) If an active member with three or more years of allowable service if first employed before July 1, 2013, or with at least five years of allowable service if first employed after June 30, 2013, dies before attaining age 55, the surviving spouse is entitled to a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity if this provides a larger benefit. The joint and survivor annuity must be computed assuming the exact age 55 for the deceased member and the age of the surviving spouse on the date of death.

(b) If an active member with less than three years of allowable service if first employed before July 1, 2013, or with fewer than five years of allowable service if first employed after June 30, 2013, dies at any age, the surviving spouse is entitled to receive a benefit for life equal to 50 percent of the average monthly salary of the deceased member.

(c) If an active member with three or more years of allowable service if first employed before July 1, 2013, or with at least five years of allowable service if first employed after June 30, 2013, dies on or after attaining exact age 55, the surviving spouse is entitled to receive a benefit for life equal to 50 percent of the average monthly salary of the deceased member, or the second half of a 100 percent joint and survivor annuity, whichever is larger. The joint and survivor annuity must be computed using the age of the deceased member on the date of death and the age of the surviving spouse on that same date.

(d) If a disabilitant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity if this provides a larger benefit. The joint and survivor annuity must be computed assuming the exact age 55 for the deceased member and the age of the surviving spouse on the date of death.

(e) If a former member with three or more years of allowable service if first employed before July 1, 2013, or with at least five years of allowable service if first employed after June 30, 2013, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this chapter, dies, the surviving spouse is entitled to receive as a benefit the second half of a 100 percent joint and survivor annuity, commencing on the first of the month next following the deceased member's date of death, or the first of the month next following the date on which the deceased member would have attained age 55, whichever is later. The joint and survivor annuity must be computed using the age of the deceased member on the date of death and the age of the surviving spouse on that same date.

(f) If a former member with less than three years of allowable service if first employed before July 1, 2013, or with fewer than five years of allowable service if first employed after June 30, 2013, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse or, if none, the children or, if none, the deceased member's estate is entitled to a refund of the employee contributions plus interest computed as specified in subdivision 1.

Subd. 2c. [Repealed, 2013 c 111 art 9 s 11]

Subd. 2d. **Coordination with workers' compensation benefits.** If the deceased member died under circumstances that entitle the surviving spouse and the dependent child or children to receive benefits under workers' compensation law, the workers' compensation benefits received by the deceased member's survivor or survivors must not be deducted from the benefits payable under this section.

Subd. 2e. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 2, 2b, or 2c is eligible for postretirement adjustments under section 356.415.

Subd. 3. **Refund; effect.** When any member or former member accepts a refund, all existing service credits and all rights and benefits to which the member or former member was entitled before acceptance of the refund terminate.

Subd. 4. **Reentry into state service; refund repayment.** (a) When a former member, who has become separated from state service that entitled the member to membership and has received a refund of retirement payments, reenters the state service in a position that entitles the member to membership, that member shall receive credit for the period of prior allowable state service if the member repays into the fund the amount of the refund, plus interest at the applicable annual rate or rates specified in section 356.59, subdivision 2, compounded annually. Repayment must be made as provided in section 352.23, paragraph (d).

(b) A person who has received a refund from the State Patrol retirement fund who is a member of another public retirement system included in section 356.311 may repay the refund with interest to the State Patrol retirement fund as provided in paragraph (a).

Subd. 5. **Death of annuitant or beneficiary.** If a retired member who did not select an optional annuity under section 352B.08, subdivision 3, dies or if the last eligible recipient of an optional annuity under section 352B.08, subdivision 3, dies and the total amounts paid as an annuity are less than the accumulated member contributions under section 352B.02, subdivision 1a, to the credit of the retired member on the date of retirement, the surviving spouse, or if none, the former member's surviving children in equal shares, or if none, the last recipient's estate is entitled, upon application, to a refund. The refund is equal to the balance of accumulated member contributions under section 352B.02, subdivision 1a, remaining after subtracting the total amount of benefits paid to the decedent.

History: 1943 c 637 s 9; 1953 c 453 s 4; 1957 c 869 s 7,8; 1959 c 642 s 6; 1961 c 493 s 4; 1965 c 889 s 5; 1967 c 244 s 3,4; 1969 c 693 s 5; 1971 c 278 s 2; 1973 c 70 s 1; 1973 c 178 s 13; 1973 c 755 s 4; 1975 c 359 s 23; 1978 c 646 s 2; 1979 c 50 s 41; 1981 c 37 s 2; 1981 c 224 s 63,274; 1982 c 397 s 3,4; 1983 c 128 s 28-30; 1984 c 564 s 18,19; 1986 c 444; 1987 c 229 art 7 s 1; 1987 c 372 art 9 s 8; 1989 c 319 art 1 s 12; art 13 s 26,27; art 17 s 10; 1990 c 570 art 12 s 15,16; 1991 c 34 s 1; 1991 c 269 art 2 s 2; 1992 c 598 art 1 s 7; 1993 c 307 art 2 s 16; 1996 c 438 art 1 s 2; 2004 c 267 art 9 s 7-11; 2009 c 169 art 1 s 26; art 2 s 23; 2010 c 359 art 1 s 19; 2013 c 111 art 9 s 8,9; 2015 c 68 art 2 s 6; 2018 c 211 art 6 s 12; art 9 s 10

352B.115 REEMPLOYMENT.

Subdivision 1. **Return to employment.** (a) A member of the State Patrol retirement plan who has separated from service and is receiving an annuity under section 352B.08 or has applied to receive an annuity under section 352B.08 may return to employment in the same department and to a position covered by the State Patrol retirement plan as early as:

- (1) the second day after separation from service if the member is at least age 55; or
- (2) the 31st day after separation from service if the member is at least age 50 but not yet age 55.

(b) The executive director must seek repayment of any annuity payments made to a member who returns to employment before the earliest day under paragraph (a), clause (1) or (2), as applicable. The executive director may waive the repayment requirement if the member's failure to comply with paragraph (a), clause (1) or (2), as applicable, was inadvertent or due to no fault of the member.

Subd. 2. **Effect on annuity.** (a) A member's return to employment under subdivision 1 does not impact the member's continued receipt of an annuity or commencement of annuity payments.

(b) During the period of reemployment:

(1) the amount of the annuity must not increase or decrease as a result of the reemployment;

(2) the member must make member contributions as required under section 352B.02, subdivisions 1a and 1b, during the period of reemployment; and

(3) the member's employer must make employer and supplemental contributions as required under section 352B.02, subdivision 1c.

Subd. 3. **Separation from service after period of reemployment.** The executive director must refund the member's contributions made during the period of reemployment, plus interest, following the member's separation from service after the period of reemployment.

Subd. 4. **Other law and rules not applicable.** (a) Section 352.115, subdivision 10, does not apply to a member of the State Patrol retirement plan who returns to employment under this section.

(b) Minnesota Rules, part 6700.0675, does not apply to a member of the State Patrol retirement plan who returns to employment under this section.

(c) Minnesota Rules, part 6700.0670, does not apply to a member of the State Patrol retirement plan who returns to employment under this section, except that the member must be fingerprinted and the fingerprints must be forwarded by the employer to the Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

Subd. 5. **Effect on mandatory retirement age.** A member's right to reemployment under subdivision 1 does not extend or affect the application of the mandatory retirement age under section 43A.34.

History: 2024 c 102 art 5 s 11

352B.12 [Repealed, 1973 c 178 s 22]

352B.13 [Repealed, 1983 c 128 s 36]

352B.131 [Repealed, 1993 c 307 art 7 s 1]

352B.14 [Repealed, 1993 c 307 art 7 s 1]

352B.15 [Repealed, 1973 c 178 s 22]

352B.16 [Repealed, 1973 c 178 s 22]

352B.17 [Repealed, 1973 c 178 s 22]

352B.18 [Repealed, 1973 c 178 s 22]

352B.19 [Repealed, 1973 c 178 s 22]

352B.20 [Repealed, 1973 c 178 s 22]

352B.21 [Repealed, 1973 c 178 s 22]

352B.22 [Repealed, 1973 c 178 s 22]

352B.23 [Repealed, 1973 c 178 s 22]

352B.24 [Repealed, 1973 c 178 s 22]

352B.25 CONTINUING APPROPRIATION; PAYMENT OF PENSION FUNDS.

The State Patrol retirement fund must be disbursed only for the purposes provided in this chapter. The expenses of the system and any benefits or annuities provided in this chapter must be paid from the State Patrol retirement fund. The amounts necessary to make the payments from the State Patrol retirement fund are annually appropriated from those funds for those purposes.

History: 1969 c 693 s 17; 1973 c 178 s 17; 1980 c 607 art 14 s 45 subd 2; 1980 c 614 s 138; 1981 c 37 s 2; 1981 c 224 s 274; 1987 c 229 art 7 s 1; 2015 c 68 art 13 s 14

352B.251 DIRECT STATE AID.

Subdivision 1. **Aid.** The commissioner of management and budget must transfer \$2,300,000 annually from the general fund to the State Patrol retirement fund on or before October 1, 2025, and October 1 of each year thereafter.

Subd. 2. **Aid expiration.** The aid under subdivision 1 expires July 1, 2048.

History: 2025 c 37 art 12 s 1

352B.26 Subdivision 1. [Repealed, 2009 c 169 art 1 s 77]

Subd. 2. [Repealed, 1987 c 259 s 83]

Subd. 3. [Repealed, 2009 c 169 art 1 s 77]

352B.261 [Repealed, 1993 c 307 art 7 s 1]

352B.262 [Repealed, 1993 c 307 art 7 s 1]

352B.265 [Repealed, 1996 c 310 s 1]

352B.27 SAVINGS CLAUSE.

Subdivision 1. **Earlier retirement laws.** The rights, privileges, annuities, and benefits, whether presently accrued or to accrue in the future, extended to those persons designated or described in Laws 1967, chapter 244, section 4; Laws 1969, chapter 693, sections 15 and 17; Laws 1971, chapter 278, section 3; and Laws 1971, chapter 543, section 1 continue in effect as provided, notwithstanding any law to the contrary.

Subd. 2. **Benefits to continue.** Except as otherwise specifically provided in this chapter, all persons who on May 8, 1973, are receiving any benefit, annuity, or payment from the Highway Patrol officers' retirement fund shall, after May 8, 1973, receive the same benefit, annuity, or payment from the fund.

History: 1973 c 178 s 19; 1986 c 444; 1987 c 229 art 7 s 1

352B.28 [Repealed, 1993 c 307 art 7 s 1]

352B.29 [Repealed, 2015 c 68 art 13 s 65]

352B.30 MS 2016 [Repealed, 2018 c 211 art 1 s 11]