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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SIXTH  
SESSION

**HOUSE FILE NO. 727**

February 12, 2009

Authored by Murphy, M., by request

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

1.1 A bill for an act  
1.2 relating to retirement; amending certain correctional employee disability benefit  
1.3 provisions; defining terms; amending age limits; amending Minnesota Statutes  
1.4 2008, section 352.95, subdivisions 1, 2, 5, 7, by adding subdivisions.

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

1.6 Section 1. Minnesota Statutes 2008, section 352.95, subdivision 1, is amended to read:

1.7 Subdivision 1. ~~Job-related disability~~ **Duty disability computation of benefit.**

1.8 A covered correctional employee who becomes disabled ~~and who is expected to be~~  
1.9 ~~physically or mentally unfit to perform the duties of the position for at least one year as a~~  
1.10 ~~direct result of an injury, sickness, or other disability that incurred in or arose out of any~~  
1.11 ~~act of duty that makes the employee physically or mentally unable to perform the duties,~~  
1.12 as defined under subdivision 1b, clause (1), is entitled to a disability benefit. The disability  
1.13 benefit ~~may~~ must be based on covered correctional service only. The benefit amount is 50  
1.14 percent of the average salary defined in section 352.93, plus an additional percent equal  
1.15 to that specified in section 356.315, subdivision 5, for each year of covered correctional  
1.16 service in excess of 20 years, ten months, prorated for completed months.

1.17 Sec. 2. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision  
1.18 to read:

1.19 Subd. 1b. Occupational disability. "Occupational disability," for purposes of  
1.20 determining eligibility for disability benefits, means a disabling condition that is expected  
1.21 to prevent a member, for a period of not less than 12 months, from performing the normal  
1.22 duties of the position held by a person who is a member of the state correctional retirement  
1.23 plan. Occupational disability benefits are awarded either as:

2.1 (1) duty disability, physical or psychological, which means a disabling condition that  
 2.2 is the direct result of an injury incurred during, or a disease arising out of, the performance  
 2.3 of normal duties or the performance of less frequent duties either of which are specific to  
 2.4 the positions covered by the state correctional retirement plan; or

2.5 (2) regular disability, physical or psychological, which means a disabling condition  
 2.6 resulting from a disease or an injury that arises from any activities while not at work or  
 2.7 while at work from performing normal or less frequent duties that do not present inherent  
 2.8 dangers specific to the occupations covered by the state correctional retirement plan.

2.9 Sec. 3. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision  
 2.10 to read:

2.11 Subd. 1c. **Normal duties.** "Normal duties" means specific tasks designated in the  
 2.12 applicant's job description and which the applicant performs on a day-to-day basis, but  
 2.13 do not include less frequent duties which may be requested to be done by the employer  
 2.14 from time to time.

2.15 Sec. 4. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision  
 2.16 to read:

2.17 Subd. 1d. **Less frequent duties.** "Less frequent duties" means tasks designated in  
 2.18 the applicant's job description as either required from time to time or as assigned, but  
 2.19 which are not carried out as part of the normal routine of the applicant's job.

2.20 Sec. 5. Minnesota Statutes 2008, section 352.95, subdivision 2, is amended to read:

2.21 Subd. 2. ~~Non-job-related~~ **Regular disability benefit.** A covered correctional  
 2.22 employee who was hired prior to July 1, 2009, after rendering at least one year of covered  
 2.23 correctional service, or a covered correctional employee who was first hired after June 30,  
 2.24 2009, after rendering at least three years of covered correctional plan service, becomes  
 2.25 disabled and who is expected to be physically or mentally unfit to perform the duties of  
 2.26 the position for at least one year because of sickness or injury that occurred while not  
 2.27 engaged in covered employment as defined under subdivision 1b, clause (2), is entitled to  
 2.28 a disability benefit based on covered correctional service only. The disability benefit must  
 2.29 be computed as provided in section 352.93, subdivisions 1 and 2, ~~and~~. The benefits of a  
 2.30 covered correctional employee who was first hired prior to July 1, 2009, and is determined  
 2.31 to be disabled under this subdivision must be computed as though the employee had at  
 2.32 least 15 years of covered correctional service.

3.1 Sec. 6. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision  
3.2 to read:

3.3 Subd. 2a. **Employer payment of present value.** The employer of a disabled  
3.4 employee who qualifies for a duty disability shall be responsible for the present value  
3.5 of the benefit. Present value of the disability benefit shall be determined by the state  
3.6 retirement system, as approved by the actuary retained under section 356.214, for the  
3.7 period beginning with the disability accrual date through the date the disabled employee  
3.8 would reach age 55. Payment shall be made by the employer of the disabled employee at  
3.9 the request of the state retirement system.

3.10 Sec. 7. Minnesota Statutes 2008, section 352.95, subdivision 5, is amended to read:

3.11 Subd. 5. **Retirement status at normal retirement age.** The disability benefit  
3.12 paid to a disabled correctional employee under this section shall terminate at the end of  
3.13 the month in which the employee reaches age ~~65~~55, or the five-year anniversary of the  
3.14 effective date of the disability benefit, whichever is later. If the disabled correctional  
3.15 employee is still disabled when the employee reaches age ~~65~~55, or the five-year  
3.16 anniversary of the effective date of the disability benefit, whichever is later, the employee  
3.17 shall be deemed to be a retired employee. If the employee had elected an optional annuity  
3.18 under subdivision 1a, the employee shall receive an annuity in accordance with the  
3.19 terms of the optional annuity previously elected. If the employee had not elected an  
3.20 optional annuity under subdivision 1a, the employee may within 90 days of attaining age  
3.21 ~~65~~55 or reaching the five-year anniversary of the effective date of the disability benefit,  
3.22 whichever is later, either elect to receive a normal retirement annuity computed in the  
3.23 manner provided in section 352.93 or elect to receive an optional annuity as provided  
3.24 in section 352.116, subdivision 3, based on the same length of service as used in the  
3.25 calculation of the disability benefit. Election of an optional annuity must be made within  
3.26 90 days before attaining age ~~65~~55 or reaching the five-year anniversary of the effective  
3.27 date of the disability benefit, whichever is later. If an optional annuity is elected, the  
3.28 optional annuity shall begin to accrue on the first of the month following the month in  
3.29 which the employee reaches age ~~65~~55 or the five-year anniversary of the effective date of  
3.30 the disability benefit, whichever is later.

3.31 Sec. 8. Minnesota Statutes 2008, section 352.95, subdivision 7, is amended to read:

3.32 Subd. 7. **Resumption of employment.** If the disabled employee resumes gainful  
3.33 work other than under subdivision 8, the disability benefit must be continued in an amount  
3.34 which when added to current earnings and workers' compensation benefits does not exceed

4.1 the salary rate of the disabled employee at the date of disability as adjusted by the same  
4.2 percentage increase in United States average wages used by Social Security in calculating  
4.3 average indexed monthly earnings for the same period.

4.4 Sec. 9. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision  
4.5 to read:

4.6 Subd. 8. **Continuation of correctional plan coverage.** An employee who  
4.7 is determined to be disabled under this section and has accrued ten or more years of  
4.8 correctional plan covered service, who accepts employment covered by the general  
4.9 employees retirement plan under section 352.01, may continue coverage under the  
4.10 correctional employee retirement plan until the employee reaches age 55. An employee  
4.11 who accepts employment under this subdivision shall have monthly disability benefits  
4.12 suspended while working in this position.