

CHAPTER 353C

LOCAL GOVERNMENT CORRECTIONAL SERVICE
RETIREMENT PLAN

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353C.01 LOCAL GOVERNMENT CORRECTIONAL SERVICE RETIREMENT PLAN.

Subdivision 1. Plan administration; fund. The public employees local government correctional service retirement plan is a separate plan administered by the public employees retirement association. The association shall maintain a special fund known as the public employees local government correctional service retirement fund.

Subd. 2. Revenue sources. Member contributions under section 353C.05, subdivision 1 or 3, and employer contributions under section 353C.05, subdivision 1 or 3, and other amounts authorized by law, including any investment income or invested fund assets, must be deposited in the fund.

Subd. 3. Investment. The public employees local government correctional service retirement fund participates in the Minnesota postretirement investment fund. The amounts provided in section 353.271 must be deposited in that fund. The balance of any assets of the fund must be deposited in the Minnesota combined investment fund as provided in section 11A.14, if applicable, or otherwise under section 11A.23.

Subd. 4. Collection of contributions. The collection of member and employer contributions are governed by section 353.27, subdivisions 4, 7, 8, 9, 10, 11, 12, and 13.

Subd. 5. Fund disbursement restricted. The public employees local government correctional service retirement fund and its share of participation in the Minnesota postretirement investment fund may be disbursed only for the purposes provided for in this chapter. The proportional share of the expenses of the association and any benefits provided in this chapter, other than benefits payable from the Minnesota postretirement investment fund, must be paid from the correctional service retirement fund. Retirement annuities, disability benefits, survivorship benefits, and any refunds of accumulated deductions may be paid only from the correctional service retirement fund after those needs have been certified by the executive director and the amounts withdrawn from the share of participation in the Minnesota postretirement fund under section 11A.18. The amounts necessary to make the payments from the correctional service retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from those funds for those purposes.

History: 1987 c 372 art 1 s 9

353C.02 CORRECTIONAL SERVICE EMPLOYEES.

A local government correctional service employee is a person who:

(1) meets the definition of "essential employee" in section 179A.03, subdivision 7, excluding state employees, University of Minnesota employees, firefighters, peace officers subject to licensure under sections 626.84 to 626.855, employees of hospitals other than state hospitals, confidential employees, supervisory employees other than employees who supervise correctional officers and who are stationed at correctional facilities or city or county jails, principals, and assistant principals;

(2) is employed by Dakota county, Hennepin county, Ramsey county, or Washing-

ton county, if the county elects to participate under section 353C.04 or by a joint-powers correctional agency in which St. Louis county or its municipalities participate, if the governing body of the agency elects to participate under section 353C.04;

(3) is a public employee within the meaning of section 353.01, subdivisions 2 and 2a; and

(4) is not at the time of the exercise of the participation option under section 353C.04 a member of the basic program of the public employees retirement association or a member of the public employees police and fire fund.

History: 1987 c 372 art 1 s 10; 1988 c 709 art 5 s 24

353C.03 CORRECTIONAL SERVICE PLAN COVERAGE.

Subdivision 1. **Initial coverage.** A person who is a local government correctional service employee on June 30, 1988, or on the date on which the county elects to participate in the plan under section 353C.04, whichever is later, is a member of the local government correctional service retirement plan and shall begin contributing to the plan on July 1, 1988, or on the first day of the first pay period following the date on which the county elects to participate in the plan under section 353C.04, whichever is later.

Subd. 2. **Subsequent coverage.** A person who becomes a local government correctional service employee after June 30, 1988, or on the date on which the county elects to participate in the plan under section 353C.04, whichever is later, is a member of the local government correctional service retirement plan and shall contribute to the plan.

History: 1987 c 372 art 1 s 11; 1988 c 709 art 5 s 25

353C.04 LOCAL GOVERNMENT EMPLOYING UNIT PARTICIPATION OPTION.

Dakota county, Hennepin county, Ramsey county, or Washington county or the governing board of a joint-powers correctional agency in which St. Louis county or its municipalities participate may elect to provide its correctional employees with retirement coverage by the local government correctional service retirement plan instead of retirement coverage by the public employees retirement association or the public employees police and fire fund. The election must be made on a form provided by the executive director of the public employees retirement association and, once made, is irrevocable for all local government correctional service employees employed by the employing unit.

History: 1987 c 372 art 1 s 12; 1988 c 709 art 5 s 26

353C.05 CORRECTIONAL SERVICE PLAN CONTRIBUTIONS.

Subdivision 1. **Member contributions.** Beginning with the first full pay period after July 1, 1988, after the effective date of the election to provide retirement coverage by the local governmental unit, or after becoming a local government correctional service employee, whichever is later, instead of employee contributions payable under section 353.27, subdivision 2, a local government correctional service employee shall make an employee contribution in an amount equal to 7.5 percent of salary.

Subd. 2. **Employer contributions.** Beginning with the first full pay period after July 1, 1988, after the effective date of the election to provide retirement coverage by the local governmental unit, or after becoming a local government correctional service employee, whichever is later, instead of employer contributions payable under section 353.27, subdivision 3, the employer shall contribute for a local government correctional service employee an amount equal to 7.5 percent of salary.

Subd. 3. **Adjustment in contribution rates.** Beginning with the first full pay period after the most recent actuarial valuation of the local government correctional service retirement plan prepared by the actuary retained by the legislative commission on pensions and retirement is filed with the executive director of the public employees retirement association, the member contribution rate is a percentage that equals one-half of the calculated total actuarial requirement of the plan, and the employer contribution rate is the balance of the calculated total actuarial requirement of the plan.

History: 1987 c 372 art 1 s 13; 1988 c 709 art 5 s 27

353C.06 CORRECTIONAL SERVICE PLAN RETIREMENT ANNUITY.

Subdivision 1. **Eligibility requirements.** After separation from public employment, an employee covered under section 353C.02 who has attained the age of at least 55 years and has credit for not less than three years of coverage in the local government correctional service plan is entitled, upon application, to a normal retirement annuity. Instead of a normal retirement annuity, a retiring employee may elect to receive the optional annuity provided in section 353.30, subdivision 3.

Subd. 2. **Average salary base.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a local government correctional employee upon which employee contributions were paid for any five successive years of allowable service. Average salary must be based on all allowable service if this service is less than five years.

Subd. 3. **Annuity amount.** The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and 2.5 percent for each additional year of allowable service, and pro rata for completed months less than a full year, determines the amount of the normal annuity. If a person has earned allowable service in the public employees retirement association or the public employees police and fire fund prior to participation under this chapter, the annuity representing such service must be computed in accordance with the formula under sections 353.29 and 353.30 or 353.651, whichever applies.

Subd. 4. **Accrual and duration.** The annuity under this section begins to accrue as provided in section 353.29, subdivision 7. The annuity is payable for the life of the recipient, or in accordance with the terms of any optional annuity form selected, and is payable for 84 full calendar months or to the first of the month following the month in which the employee attains the normal retirement age, whichever occurs first. After a recipient has received the annuity calculated under this formula for 84 full calendar months or to the first of the month following the month in which the employee attains the normal retirement age, whichever occurs first, the benefit must be recomputed in accordance with the coordinated formula in sections 353.29 and 353.30, except that if this amount, when added to the social security benefit based on public service the employee is eligible to receive at that time, is less than the benefit payable under subdivision 3, the retired employee is entitled to receive an amount payable under subdivision 3, less any amount payable from social security based on public service used in the benefit calculation. When an annuity is reduced under this subdivision, any percentage of adjustments that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity.

Subd. 5. **Multiple service limitation.** A former employee who has both regular and local government correctional service must, if qualified, receive an annuity based on both periods of service, but no period of service may be used more than once in calculating the annuity.

History: 1987 c 372 art 1 s 14; 1988 c 709 art 5 s 28-30; 1989 c 319 art 13 s 49-51; 1991 c 341 s 31

353C.07 AUGMENTATION IN CERTAIN CASES.

Subdivision 1. **Augmentation for prior service benefits.** Unless prior service has been transferred or unless a combined service annuity under section 356.30 has been elected, an employee who becomes a local government correctional employee after being a member of the public employees retirement association or the public employees police and fire fund is covered under section 353.71, subdivision 2, with respect to that prior service. An employee who becomes a member of the public employees retirement association or the public employees police and fire fund after being a local government correctional employee is also covered under section 353.71, subdivision 2, with respect to that prior service, unless calculated under section 356.30.

Subd. 2. [Repealed, 1991 c 341 s 51]

History: 1987 c 372 art 1 s 15; 1988 c 709 art 5 s 31; 1991 c 341 s 32

353C.08 DISABILITY BENEFITS.

Subdivision 1. **Duty disability qualification requirements.** A local government correctional employee who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that renders the employee physically or mentally unable to perform the employee's duties, is entitled to a disability benefit based on covered service only in an amount equal to 45 percent of the average salary defined in section 353C.06, subdivision 2, plus an additional 2.5 percent for each year of covered service in excess of 20 years.

Subd. 2. **Nonduty disability qualification requirements.** A local government correctional employee who has at least one year of covered service and becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 353C.06, 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.** A claim or demand for a disability benefit must be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the association, showing compliance with the statutory conditions qualifying the applicant for a disability benefit. A member or former member who became disabled during a period of membership may file an application for disability benefits within three years following termination of local government correctional service, but not after that time has elapsed. This benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the 90-day period, from the date salary ceased, whichever is latest. No payment may accrue beyond the end of the month in which entitlement has terminated. If the disabilitant 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 62. If the disabled local government correctional employee is still disabled when the employee reaches age 62, 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 on the coordinated formula in the manner provided in section 353.29 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 before attaining the age of 62 years. The reduction for retirement prior to normal retirement age as provided in section 353.30, subdivisions 1, 1c, and 5, is not applicable. The savings clause provision of section 353C.06, subdivision 4, is applicable.

Subd. 6. **Resumption of employment.** Should a disabled employee resume 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 regular 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 regular 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 regular plan service must be augmented as provided in section 353.71 while the employee is receiving a disability benefit under this section.

History: 1987 c 372 art 1 s 16; 1988 c 709 art 5 s 32,33; 1989 c 319 art 13 s 52; 1991 c 341 s 33; 1993 c 307 art 4 s 45,46

353C.09 SURVIVING SPOUSE OPTIONAL ANNUITY.

If a member or former member of the local government correctional service retirement plan has attained the age of at least 50 years and has credit for not less than three years of allowable service, or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, an annuity equal to the 100 percent joint and survivor annuity for which the member could have qualified had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed on the formulas under sections 353.29, subdivisions 2 and 3, and 353.30, subdivisions 1, 1a, 1b, and 1c. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment must be made only to the designated beneficiary, as otherwise provided by this chapter.

History: 1987 c 372 art 1 s 17; 1991 c 341 s 34

353C.10 SCOPE AND APPLICATION.

The general provisions of chapter 353 apply to the local government correctional service retirement plan except where otherwise specifically provided in sections 353C.01 to 353C.10.

History: 1987 c 372 art 1 s 18