

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 972

(SENATE AUTHORS: HOWE)

DATE
01/30/2023

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OFFICIAL STATUS
Introduction and first reading
Referred to State and Local Government and Veterans

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; modifying
1.3 disability application procedures; amending Minnesota Statutes 2022, section
1.4 353.031, subdivisions 3, 5, 6, 8, 9.

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

1.6 Section 1. Minnesota Statutes 2022, section 353.031, subdivision 3, is amended to read:

1.7 Subd. 3. **Procedure to determine eligibility; generally.** (a) Every claim for a disability
1.8 benefit must be initiated in writing on an application form and in the manner prescribed by
1.9 the executive director and filed with the executive director. An application for disability
1.10 benefits must be made within 18 months following termination of public service as defined
1.11 under section 353.01, subdivision 11a. No later than ten days after receiving the application,
1.12 the executive director must provide a copy of the application to the claimant's public
1.13 employer.

1.14 (b) All medical reports must support a finding that the disability arose before the employee
1.15 was placed on any paid or unpaid leave of absence or terminated public service, as defined
1.16 under section 353.01, subdivision 11a.

1.17 (c) An applicant for disability shall provide a detailed report signed by a licensed ~~medical~~
1.18 ~~doctor~~ physician and at least one additional report signed by a ~~medical doctor~~ physician,
1.19 psychologist, an APRN, or a chiropractor. A physician, psychologist, APRN, or chiropractor
1.20 is qualified to sign a report if the medical professional specializes in the treatment of the
1.21 injury claimed by the applicant. The applicant ~~shall~~ must authorize the release of all medical
1.22 and health care evidence, including all medical records and relevant information from any
1.23 source, to support the application for initial, or the continuing payment of, disability benefits.

2.1 No later than ten days after receiving the medical reports, the executive director must provide
2.2 a copy of the reports to the claimant's public employer.

2.3 (d) All reports must contain an opinion regarding the claimant's diagnosis, prognosis,
2.4 the duration of the disability, and the expectations for improvement. Any report that does
2.5 not contain and support a finding that the disability will last for at least one year ~~may~~ must
2.6 not be relied upon to support eligibility for benefits.

2.7 (e) Where the medical evidence supports the expectation that at some point in time the
2.8 claimant will no longer be disabled, any decision granting disability may provide for a
2.9 termination date upon which disability can be expected to no longer exist. In the event a
2.10 termination date is made part of the decision granting benefits, prior to the actual termination
2.11 of benefits, the claimant shall have the opportunity to show that the disabling condition for
2.12 which benefits were initially granted continues. In the event the benefits terminate in
2.13 accordance with the original decision, the claimant may petition for a review by the board
2.14 of trustees under section 353.03, subdivision 3, or may reapply for disability in accordance
2.15 with these procedures and section 353.33, 353.656, or 353E.06, as applicable.

2.16 (f) Any claim to disability must be supported by a report from the employer indicating
2.17 that there is no available work that the employee can perform in the employee's disabled
2.18 condition and that all reasonable accommodations have been considered. Upon request of
2.19 the executive director, an employer shall provide evidence of the steps the employer has
2.20 taken to attempt to provide reasonable accommodations and continued employment to the
2.21 claimant. The employer shall also provide a certification of the member's past public service;
2.22 the dates of any paid sick leave, vacation, or any other employer-paid salary continuation
2.23 plan beyond the last working day; and whether or not any sick or annual leave has been
2.24 allowed.

2.25 (g) An employee who is placed on leave of absence without compensation because of
2.26 a disability is not barred from receiving a disability benefit.

2.27 (h) An applicant for disability benefits may file a retirement annuity application under
2.28 section 353.29, subdivision 4, simultaneously with an application for disability benefits. If
2.29 the application for disability benefits is approved, the retirement annuity application is
2.30 canceled. If disability benefits are denied, the retirement annuity application must be
2.31 processed upon the request of the applicant. No member of the ~~public~~ general employees
2.32 ~~general~~ retirement plan, the ~~public-employees~~ police and fire plan, or the local government
2.33 correctional service retirement plan may receive a disability benefit and a retirement annuity
2.34 simultaneously from the same plan.

3.1 (i) No later than 60 days after receipt of the documentation required to be provided under
3.2 paragraphs (a) and (c), the claimant's public employer may submit its own evidence and
3.3 information, including a written expert medical report, to the executive director. The
3.4 executive director must consider this evidence and information in determining whether to
3.5 approve or deny the application for disability benefits.

3.6 Sec. 2. Minnesota Statutes 2022, section 353.031, subdivision 5, is amended to read:

3.7 Subd. 5. **Medical adviser.** The executive director ~~may~~ must contract with ~~an accredited~~
3.8 ~~independent organization specializing in disability determinations or a licensed~~ a physician
3.9 who is licensed to practice medicine in the state of Minnesota and specializes in the injury
3.10 claimed by the applicant to be the medical adviser of the association. The medical adviser
3.11 ~~shall~~ review all medical reports submitted to the association, including the findings of an
3.12 independent medical examination requested under this section, and ~~shall~~ advise the executive
3.13 director.

3.14 Sec. 3. Minnesota Statutes 2022, section 353.031, subdivision 6, is amended to read:

3.15 Subd. 6. **Independent medical examination.** Any individual applying for ~~or receiving~~
3.16 disability benefits must submit to an independent medical examination ~~if requested by the~~
3.17 ~~executive director~~ by a physician who is licensed to practice medicine in the state of
3.18 Minnesota and specializes in the injury claimed by the applicant. The medical examination
3.19 must be paid for by the association.

3.20 Sec. 4. Minnesota Statutes 2022, section 353.031, subdivision 8, is amended to read:

3.21 Subd. 8. **Proof of continuing disability.** (a) A disability benefit payment must not be
3.22 made except upon adequate proof furnished to the executive director of the association that
3.23 the person remains disabled.

3.24 (b) During the time when disability benefits are being paid, the executive director of the
3.25 association ~~has the right, at reasonable times, to~~ must require the disabled member to submit
3.26 proof, no less frequently than annually, of the continuance of the disability claimed.

3.27 (c) Adequate proof of a disability must include a written expert report by a ~~licensed~~
3.28 ~~physician, an APRN, or a licensed chiropractor, or, with respect to a mental impairment, a~~
3.29 ~~licensed psychologist~~ who is licensed to practice medicine in the state of Minnesota and
3.30 specializes in the injury claimed by the applicant.

3.31 (d) A copy of the annual report must be provided to any public employer providing
3.32 benefits to the disabled member under section 299A.465.

4.1 Sec. 5. Minnesota Statutes 2022, section 353.031, subdivision 9, is amended to read:

4.2 Subd. 9. **Application approval or denial; decision of executive director.** (a) Any
4.3 decision of the executive director is final, except that:

4.4 (1) a member whose application for disability benefits or whose continuation of disability
4.5 benefits is denied may appeal the executive director's decision to the board of trustees within
4.6 60 days of receipt of a certified letter notifying the member of the decision to deny the
4.7 application or continuation of benefits; and

4.8 (2) a public employer of a claimant whose application for disability benefits is approved
4.9 may appeal the executive director's decision to the board of trustees within 60 days of receipt
4.10 of a certified letter notifying the public employer of the decision to approve the application.

4.11 (b) In developing the record for review by the board when a decision is appealed, the
4.12 executive director may direct that the applicant participate in a fact-finding session conducted
4.13 by an administrative law judge assigned by the Office of Administrative Hearings, and, as
4.14 applicable, a vocational assessment conducted by the qualified rehabilitation counselor on
4.15 contract with the ~~Public Employees Retirement~~ association.

4.16 Sec. 6. **EFFECTIVE DATE.**

4.17 Sections 1 to 5 are effective July 1, 2023.