



**S.F. 2463**

(Pogemiller)

**H.F. xxx**

**Executive Summary of Commission Staff Materials**

Affected Pension Plan(s): Social Security Coverage  
Relevant Provisions of Law: Minnesota Statutes, Chapter 355  
General Nature of Proposal: Permits Additional Social Security and Medicare Coverage Referenda  
Date of Summary: February 9, 2006

**Specific Proposed Changes**

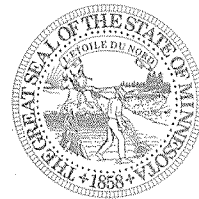
- Allows Combined PERA-Defined Contribution Plan and Social Security Coverage for Local Elected Officials.
- Permits Pre-1986 Public Employees Without Medicare Coverage to Elect Medicare Coverage.
- Retroactive Social Security or Medicare Coverage.

**Policy Issues Raised by the Proposed Legislation**

1. Accuracy of the Suggested Technical Corrections.
2. Appropriateness of Allowing PERA-Defined Contribution Members to Have Concurrent Social Security Coverage.
3. Authorization of Additional Medicare Coverage Referendum.
4. Appropriateness of Providing Retroactive Social Security or Medicare Coverage.

**Potential Amendments**

Amendment S2463-A1 Provides for a July 1, 2006, statewide referendum for all Minnesota general public employees currently uncovered by Social Security rather than several individual employing unit referenda. (Substantive)



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: S.F. 2463 (Pogemiller); H.F. xxx: Social Security Coverage; Authorizing Social Security and Medicare Referenda; Allowing Retroactive Coverage

DATE: February 9, 2006

#### Summary of S.F. 2463 (Pogemiller); H.F. xxx

S.F. 2463 (Pogemiller); H.F. xxx amends various provisions of Minnesota Statutes, Chapter 355, governing coverage of governmental employees by the federal Social Security program, by making the following changes:

1. Allows Combined PERA-Defined Contribution Plan and Social Security Coverage for Local Elected Officials. Local elected officials, who have either Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution) coverage or Social Security coverage under current law, could have concurrent coverage by both if the applicable governmental unit decides to permit a Social Security referendum that would provide both;
2. Permits Pre-1986 Public Employees Without Medicare Coverage to Elect Medicare Coverage. Public employees hired before 1986 who are not required under federal law to have Medicare coverage and who have not previously elected Medicare coverage could elect Medicare coverage if the applicable governmental unit decides to permit the referendum; and
3. Retroactive Social Security or Medicare Coverage. Persons who newly gain Social Security or Medicare coverage under the proposed legislation would be permitted to elect to have retroactive Social Security or Medicare coverage to the extent permitted by law with the payment by the person of the back Social Security or Medicare contributions, with the applicable employer being obligated to pay the back employer Social Security or Medicare contributions.

#### Background Material on Federal Social Security Coverage for Minnesota Public Employees

Background information on the manner in which the federal Social Security Program was extended to public employees in Minnesota and the extent of federal Social Security coverage for various public employee groups is contained in Attachment A.

#### Background Material on the Nature of the Federal Social Security Program

Background information on the nature of the federal Old Age, Survivors, Disability, and Health Insurance (OASDHI) program (Social Security) is contained in Attachment B.

#### Discussion and Analysis

S.F. 2463 (Pogemiller); H.F. xxx would amend various provisions of Minnesota Statutes, Chapter 355, the State's Social Security coverage law, to make some technical corrections, to allow interested local governmental units to provide concurrent Social Security coverage for local elected officials who are covered by the Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution), to permit interested local governmental units to extend Medicare coverage to currently uncovered pre-1986 public employees, and to permit retroactive Social Security or Medicare coverage, with back employer contribution obligations payable by the affected governmental units.

The proposed legislation raises several pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Accuracy of the Suggested Technical Corrections. The policy issue is the accuracy of the technical corrections suggested for Minnesota Statutes, Chapter 355. Minnesota Statutes, Chapter 355, was first enacted in 1957, when Minnesota first extended Social Security coverage to some of its public employees, was expanded over the years as additional Minnesota public employees were included in Social Security coverage, and was recodified to remove extensive redundant provisions in 2002

(Laws 2002, Chapter 392, Article 8). The administration of the State's Social Security law was initially vested in the Executive Branch, most recently the Department of Employee Relations (DOER), until it was shifted to the Public Employees Retirement Association (PERA) in 2002. The proposed legislation reflects PERA's initial recommendations as the State's Social Security Administrator on the Social Security chapter. While some of the changes appear to remove or replace cumbersome references, the proposed legislation also proposes changes that may be unintentionally substantive, such as the elimination of a specific reference to the League of Minnesota Cities that was initially part of the general legislation extending Social Security coverage to PERA members in 1967 (Laws 1967, Chapter 687, Section 10). Representatives of PERA should be requested to briefly walk through the various strike-outs and additions in the proposed legislation to insure that there is a clearly stated rationale on the record for each proposed change.

2. Appropriateness of Allowing PERA-Defined Contribution Members to Have Concurrent Social Security Coverage. The policy issue is the appropriateness of allowing local elected officials covered by the Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution) to also have concurrent Social Security coverage at the discretion of the local governmental unit. Before the 2001 changes in the membership eligibility of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), First Special Session Laws 2001, Chapter 10, Article 11, Sections 2, 3, and 4, elected local officials with compensation of at least \$425 per month in any month of service were eligible to be PERA-General members and had Social Security coverage by virtue of that PERA-General membership eligibility. The 2001 PERA-General membership change for local elected officials changed Social Security eligibility for these individuals. It would have been appropriate for PERA to have flagged this implication of its 2001 recommendations in 2001 or shortly thereafter and clarifying the situation now is advisable. The recommended change allows the concurrent Social Security coverage on a governmental unit-by-governmental unit basis and by governing unit action rather than by individual action. The Legislature long ago (1957, 1959, 1965, and 1967) has decided that Social Security coverage is appropriate for general employees in Minnesota, which would argue for the Legislature making a comprehensive decision on the coverage issue. Amendment S2463-A1 sets a July 1, 2006, referendum date for a Social Security coverage referendum for all currently uncovered general employees statewide, rather than by employing unit.
3. Authorization of Additional Medicare Coverage Referendum. The policy issue is the appropriateness of authorizing an additional Medicare coverage referendum for Minnesota public employees who were employed before 1986 and who do not have the special federal medical coverage. The Legislature has authorized Medicare coverage referenda previously, so another referendum does not deviate from past practice. The referendum, however, would only occur if the local governmental unit elected to have it coordinated. It is not clear why a number of very localized referenda are preferable to a single statewide additional Medicare coverage referendum.
4. Appropriateness of Providing Retroactive Social Security or Medicare Coverage. The policy issue is the appropriateness of allowing retroactive Social Security coverage or retroactive Medicare coverage and the appropriateness of making the back employer contribution automatically on obligations of the employing unit rather than negotiable between the employee and the employing unit. The retroactive coverage obligation potential for one person could affect the employing unit's view of authorizing or not authorizing a Social Security or Medicare referendum in the first instance, especially if the person interested in retroactive coverage is not a favored or well-liked employee. The retroactive coverage issue may be better decided if it was severed from the initial referendum decision.

## Attachment A

### Background Information on Social Security Coverage for Minnesota Public Employees

- a. In General. Social Security is a collection of federal programs. Social Security is the Old Age, Survivors, Disability and Health Insurance Programs.

Social Security is a product of the Great Depression of the 1930s, when being old generally meant being poor, and represents the response of the federal government to this phenomenon of poverty among the elderly. Since President Franklin D. Roosevelt announced his initiation to provide a Social Security program on June 8, 1934, Social Security has become a key element in the retirement planning of most U.S. citizens. The first Social Security Act was signed into law on August 14, 1935. The original act provided only lump sum retirement benefits.

In 1939, dependent (spouse and minor children) benefits were added to the old age assistance benefits in the event of the premature death of a worker were also added. In 1940, monthly Social Security benefits replaced lump sum benefits. Social Security coverage was extended to public sector workers, under agreement between the federal government and the applicable government, in the early 1950s. Ad hoc cost-of-living adjustments to Social Security benefits began in 1950, with automatic Social Security cost-of-living adjustments. In 1956, a disability benefit program was added to Social Security and was expanded in 1958. In 1956, the minimum retirement age for Social Security benefit eligibility was reduced to age 62 for women, and in 1961, for men. In 1965, Medicare (the Health Insurance Program) was added to Social Security.

Currently, 17 percent (45 million) of all Americans receive a social Security benefit, of which about 30 million are retirees. Approximately 98 percent of all American workers are covered by Social Security. Most uncovered workers are public employees.

- b. Coverage of Public Employees. Old Age, Survivors, Disability and Health Insurance program (Social Security) coverage for public employees, under 42 U.S. Code Section 418, is generally provided through coverage agreements between the applicable state and the federal Department of Health and Human Services. When Social Security was established in 1935, it did not permit coverage for public employees since it is funded by employee and employer payroll taxes (the Federal Insurance Contribution Act or FICA tax) and taxation of state governments by the federal government is unconstitutional. In 1954, Social Security coverage was extended to public employees by virtue of intergovernmental (state-federal) agreements. The applicable law is Minnesota Statutes, Chapter 355. In 1990, Social Security coverage was extended to any public employee who is not covered by a public employee pension plan.

Under both state and federal law, Minnesota police officers and firefighters are not eligible for coverage under the federal Old Age, Survivors, and Disability Insurance program, more commonly known as Social Security.

Under state law, Minnesota Statutes, Section 355.07, police officers and firefighters are not permitted to be included in any agreement between the State of Minnesota and the federal Department of Health and Human Services extending Social Security to public employees. The last sentence of that statute, first enacted in 1955, indicates that:

Nothing in any provision of this chapter shall authorize the extension of the insurance system established by this chapter, as amended, to service in any police officer's or firefighter's position or in any position covered by a retirement system applicable exclusively to positions in one or more law enforcement or fire fighting units, agencies or departments.

Under federal law, 42 U.S. Code, Section 418(d)(8)(D), police officers and firefighters are not eligible for inclusion in a Social Security coverage agreement, although 42 U.S. Code, Section 418(l) has been recently amended to permit police officers and firefighters to be included in a Social Security coverage agreement. Previously, 42 U.S. Code, Section 418(l) allowed police officer and firefighter inclusion in Social Security coverage agreements in only 22 states (including North Dakota and South Dakota, but not Minnesota) and Puerto Rico unless the Governor of the remaining 28 states determined that Social Security coverage would improve the firefighters benefit coverage. Minnesota's Social Security coverage agreement does not include Minnesota police officers or firefighters in Social Security coverage.

In 1990 legislation, effective July 1, 1991, amending 42 U.S. Code, Section 410(a)(7)(F), Social Security coverage was extended to those public employees who are not covered by a public pension

plan. Public pension plan coverage for purposes of 42 U.S. Code Section 410(a)(7)(F) means coverage by any pension plan established for public employees unless provided differently by federal Department of Treasury regulation. Treasury regulation 26 Code of Federal Regulation, Section 31.3121(b)(7)-2 specifies which public employees are considered to have sufficient public pension coverage to be exempt from Federal Insurance Contribution Act (FICA) taxes if not included in a federal-state social security coverage agreement under U.S. Code, Section 418.

In Minnesota, virtually all public employees are included in Social Security coverage based on a 42 U.S. Code, Section 418 state federal coverage agreement. The groups currently excluded from Minnesota's agreement with the federal government extending Social Security coverage are as follows:

1. Constitutional Officers first taking office before July 1, 1997;
2. Legislators first taking office before July 1, 1997;
3. Judges first taking office before July 1, 1973;
4. Members of the State Patrol Retirement Plan;
5. Members of the Public Employees Police and Fire Plan (PERA-P&F);
6. Members of the various local police or salaried fire relief associations or consolidation accounts administered by Public Employees Retirement Association (PERA);
7. Members of the PERA Basic Program (pre-1967 hirees);
8. Members of the Teachers Retirement Association (TRA) Basic Program (pre-1959 hirees);
9. Members of the Minneapolis Teachers Retirement Fund Association (MTRFA) Basic Program (pre-1978 hirees);
10. Members of the St. Paul Teachers Retirement Fund Association (SPTRFA) Basic Program (pre-1978 hirees);
11. Members of the Minneapolis Employees Retirement Fund (MERF, pre-1979 hirees);
12. State or local government employees excluded from the coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), PERA, TRA, MERF, or the first class city teacher retirement plans; and
13. Members of the various volunteer firefighter relief associations for their volunteer firefighter service.

Originally, in 1954, Social Security coverage was extended by a coverage agreement that required an "all or none" referendum of current public pension plan members. The State Employees Retirement Association (SERA), renamed the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), and the Duluth Teachers Retirement Fund Association (DTRFA) both coordinated with social Security on an "all or none" referendum basis, which is why those plans lack a Basic program. Later in the 1950s, the Social Security Act was amended to permit coverage extensions on a split basis referendum basis, where existing public pension plan members who did not desire Social Security coverage could retain their prior coverage. The Legislators Retirement Plan, the Judges Retirement Plan, the Elected State Officers Retirement Plan, the Public Employees Retirement Association (PERA), the Teachers Retirement Association (TRA), the Minneapolis Teachers Retirement Fund Association (MTRFA), the St. Paul Teachers Retirement Fund Association (SPTRFA), and the Minneapolis Employees Retirement Fund (MERF) all coordinated with Social Security on a split basis referendum basis.

Attachment B

Background Information on Social Security Coverage

- 1. In General. Social Security, the Old Age, Survivors, Disability and Health Insurance Program (OASDHI), provides retirement benefits to older covered employees, to disabled employees, to certain dependents of living benefit recipients, and to certain dependent survivors of deceased covered employees. It also provides hospitalization insurance and medical insurance to eligible Social Security recipients and dependents under the Medicare Program.
- 2. Old Age, Survivors and Disability (OASDI) Insurance Program
  - a. Social Security Old Age Benefit. A fully insured covered worker at the Social Security normal retirement age will be entitled to a Social Security old age benefit equal to 100 percent of the primary insurance amount. A reduced benefit is available as early as age 62 and an increased benefit is payable if benefit receipt is postponed beyond age 65.

A covered worker typically must have 40 calendar year quarters of Social Security coverage to be considered to be fully insured (if born before January 2, 1929, adjusted downward on a sliding scale to 28 quarters for a 1917 year of birth). Social Security coverage is a function of employment covered by Social Security and the magnitude of employment earnings. Private sector employees have been covered by the Social Security program since the 1930's. Public sector employees are covered if the employing unit is covered by an agreement with the federal government (Department of Health and Human Services) extending the program to new employees on a mandatory basis and to existing employees on an individually elective basis through a Social Security referendum. A covered worker receives a quarter of coverage if the worker had at least \$640 (1996 figure; which is indexed) in covered employment earnings, up to four quarters per calendar year. Self-employed individuals also are covered by Social Security for self-employed income, which does not generally include real estate rental income, stock dividends, bond interest, net capital gains, limited partner income from a partnership, and incidental, casual work, or de minimis self-employment wages or income.

The compensation covered by the Social Security Old Age benefit is limited (\$62,700 in 1996 and \$65,400 in 1997, indexed annually).

The Social Security normal retirement age varies, depending on the year of birth of the covered worker, as follows:

Year of Birth	Normal Retirement Age
1937 and before	65 years
1938	65 years 2 months
1939	65 years 4 months
1940	65 years 6 months
1941	65 years 8 months
1942	65 years 10 months
1943-54	66 years
1955	66 years 2 months
1956	66 years 4 months
1957	66 years 6 months
1958	66 years 8 months
1959	66 years 10 months
1960 and later	67 years

The Social Security primary insurance amount is the basic Social Security benefit calculation. While the Social Security old age benefit is a defined benefit plan benefit, the computation of the benefit amount is more complicated than a typical public sector defined benefit plan benefit. Social Security uses a modified career average salary base, known as the average indexed monthly earnings amount, and replaces a preset amount of the base without reference to the length of employment. Short employment will be reflected in a reduced career average salary amount, with the inclusion of several low earnings or no earnings years. The average indexed monthly earnings amount is the covered wages of a covered worker in covered employment since 1950 or after age 21, if later, through age 62, after dropping out the lowest five years from the averaging period, and indexed based on the national average wage through the year in which the worker reached age 60. The primary insurance amount is determined by multiplying the three component parts of the average indexed monthly earnings by the applicable replacement percentage. For 1996, the three

component parts were average indexed monthly earnings up to \$437, average indexed monthly earnings over \$437 and under \$2,636, and average indexed monthly earnings over \$2,635 up to the maximum covered average indexed monthly earnings amount. The average indexed monthly earnings component part dollar amounts are referred to as the bend points and the bend points are adjusted annually on January 1 based on the comparison between the national average wage for the second preceding year with the comparable figure for the year 1977, with the ratio applied to the 1979 bend points. The replacement ratio formula is as follows:

average indexed monthly earnings \$0 - \$437	90 percent
average indexed monthly earnings \$438 - \$2,635	32 percent
average indexed monthly earnings \$2,636 and over	15 percent

The calculated Social Security old age benefit is payable at the normal retirement age. Social Security old age benefits are payable early at age 62, with a reduction of five-ninths of one percent per month under the normal retirement age. Social Security old age benefits paid after the Social Security normal retirement age are increased based on an age-related schedule from one-twelfth of one percent (for years of birth before 1917) to thirteen - twenty fourths of one percent (for 1937).

Social Security old age benefits are subject to an annual earnings test and limits. A covered worker begins receipt of a Social Security old age benefit based on attaining a requisite age, rather than terminating employment with a particular employer or all employers. If an old age benefit recipient is employed after commencing receipt, the Social Security old age benefit is reduced by one dollar for each three dollars of earnings above a designated limit until the recipient reaches age 70. The 1996 limits were \$8,280 for the period age 62 - age 64 and \$12,500 for the period age 65 - age 69.

If a covered worker has pension coverage from non-covered employment at the time of benefit calculation, such as a pre-1998 legislator, there is a potential "windfall offset" reduction in the primary insurance amount replacement percentage for the initial component portion of the average indexed monthly earnings, which is normally 90 percent and could be reduced to 40 percent. No reduction in the replacement rate applies to persons who were age 62 before 1986, or who had at least 30 years of covered employment with substantial earnings (at least one-quarter of the prior (old law) maximum taxable earnings base, or \$1,200 in 1960, \$1,950 in 1970, \$5,100 in 1980, \$9,525 in 1990, and \$11,625 in 1996, for example). If the years of substantial covered employment earnings are less than 30 years, the reduction will vary (from 90 to 85 percent with 29 years of substantial earnings ranging down on a sliding scale to 40 percent with less than 21 years of substantial earnings). The maximum windfall offset is one-half of the pension attributable to post-1956 employment earnings not covered by Social Security. For covered workers who turn age 62 in 1996 and have less than 20 years of substantial earnings in Social Security covered employment, the maximum reduction would be one-half (90 percent reduced to 40 percent) of the amount under the first bend point (\$437), or \$218.50 per month.

Based on the primary insurance amount computation worksheet from a Hay/Huggins Company publication, 1996 Social Security Summary, the following sets forth the calculation of the Social Security old age benefit for a person covered by Social Security 1951-1996, retiring in 1996 at age 65, earning the annual salary (excluding per diem) of a Minnesota legislator:

(a)	year of eligibility (age 62)	1993
(b)	number of years 1951-1993	42
(c)	number of years included in calculation (42-5)	37
(d)	months in averaging period (37x12)	444
(e)	year (a) - 2	1991
(f)	national average wage for 1991	\$21,811.60
(g)	indexed earnings table:	

(1) Calendar Year	(2) Enter Covered Earnings for Year	(3) Maximum Taxable Earnings Base	(4) Enter the Smaller of Column (2) or Column (3)	(5) National Average Wage*	(6) Indexed Earnings [(f)x(4)/(5)] (to nearest cent)**
1951	\$1,000	\$3,600	\$1,000	\$2,799.16	\$7792.19
1952	1,000	3,600	1,000	2,973.32	7,335.77
1953	1,500	3,600	1,500	3,139.44	10,421.41
1954	1,500	3,600	1,500	3,155.64	10,367.91
1955	1,500	4,200	1,500	3,301.44	9,910.04
1956	1,500	4,200	1,500	3,532.36	9,262.19

(1) Calendar Year	(2) Enter Covered Earnings for Year	(3) Maximum Taxable Earnings Base	(4) Enter the Smaller of Column (2) or Column (3)	(5) National Average Wage*	(6) Indexed Earnings [(f)x(4)/(5)] (to nearest cent)**
1957	2,400	4,200	2,400	3,641.72	14,374.48
1958	2,400	4,200	2,400	3,673.80	14,248.96
1959	2,400	4,800	2,400	3,855.80	13,576.39
1960	2,400	4,800	2,400	4,007.12	13,063.71
1961	2,400	4,800	2,400	4,086.76	12,809.13
1962	2,400	4,800	2,400	4,291.40	12,198.31
1963	2,400	4,800	2,400	4,396.64	11,906.33
1964	2,400	4,800	2,400	4,576.32	11,438.85
1965	2,400	4,800	2,400	4,658.72	11,236.53
1966	2,400	6,600	2,400	4,938.36	10,600.24
1967	4,800	6,600	4,800	5,213.44	20,081.88
1968	4,800	7,800	4,800	5,571.76	18,790.41
1969	4,800	7,800	4,800	5,893.76	17,763.82
1970	4,800	7,800	4,800	6,186.24	16,923.96
1971	4,800	7,800	4,800	6,497.08	16,114.27
1972	4,800	9,000	4,800	7,133.80	14,676.00
1973	8,400	10,800	8,400	7,580.16	24,170.66
1974	8,400	13,200	8,400	8,030.76	22,814.46
1975	8,400	14,100	8,400	8,630.92	21,228.03
1976	8,400	15,300	8,400	9,226.48	19,857.78
1977	8,400	16,500	8,400	9,779.44	18,734.96
1978	8,400	17,700	8,400	10,556.03	17,356.66
1979	16,500	22,900	16,500	11,479.46	31,350.90
1980	18,500	25,900	18,500	12,513.46	32,246.45
1981	18,500	29,700	18,500	13,773.10	29,297.30
1982	18,500	32,400	18,500	14,531.34	27,768.57
1983	18,500	35,700	18,500	15,239.24	26,478.66
1984	18,500	37,800	18,500	16,135.07	25,008.54
1985	21,140	39,600	21,140	16,822.51	27,409.54
1986	22,350	42,000	22,350	17,321.82	28,143.07
1987	23,244	43,800	23,244	18,426.51	27,514.10
1988	23,941	45,000	23,941	19,334.04	27,008.92
1989	25,138	48,000	25,138	20,099.55	27,279.22
1990	26,395	51,300	26,395	21,027.98	27,378.63
1991	27,979	53,400	27,979	21,811.60	27,979.00
1992	27,979	55,500	27,979	22,935.42	27,979.00
1993	27,979	57,600	27,979	23,132.67	27,979.00
1994	27,979	60,600	27,979	23,753.53	27,979.00
1995	29,657	61,200	29,657	23,753.53	29,657.00
1996	29,657	62,700	29,657	23,753.53	29,657.00

\* This column applies only through 1991, the year of eligibility (age 62) less two years. Thereafter, use same figure as shown for 1991.

\*\* This computation applies through 1991. Thereafter, use the figure from Column (4).

- (h) total of highest entries for 37 years, excluding 1996 \$810,585.95
- (i) average indexed monthly earnings ((h)/444) 1,825
- (j) lower bend point for 1993 \$401
- (k) upper bend point for 1993 \$2,420
- (l) amount by which (k) exceeds (j) \$2,019
- (m) primary insurance amount
- (1) 90% of lesser of (j) or (i)  $\$401 \times .90 = \$360.90$
- (2) 32% of lesser of (l) or (i) minus (j)  $\$1,424 \times .32 = \$455.68$
- (3) 15% of (i) minus (k), not less than zero \$0
- (4) (m)(1) + (m)(2) + (m)(3), rounded down to \$0.10 \$816.50
- (n) post age 62 general benefit increases
- 1993  $\$816.50 \times 1.026 = \$837.70$
- 1994  $\$837.70 \times 1.028 = \$861.10$
- 1995  $\$861.10 \times 1.026 = \$883.40$



b. Social Security Disability Benefit

A fully insured covered worker who becomes disabled will be entitled to a Social Security disability benefit equal to 100 percent of the primary insurance amount without reduction for payment earlier than the Social Security normal retirement age.

A covered worker who is older than age 30 and becomes disabled after 1990 must have 40 calendar year quarters of Social Security coverage and must have 20 calendar year quarters of Social Security coverage in the 40 quarter period ending with the quarter in which the disability began, which must not include any quarter used for a prior disability benefit. A covered worker who is older than age 23 and younger than age 31 and becomes disabled for a reason other than blindness must have 20 calendar year quarters of Social Security coverage after the quarter in which the covered worker attains age 21 and ending with the quarter in which the disability begins. A covered worker who is under age 24 and becomes disabled for a reason other than blindness must have six calendar year quarters of Social Security coverage in the 12 calendar year quarters ending with the quarter in which the disability begins. A covered worker who becomes disabled by blindness must have 40 calendar year quarters of Social Security coverage.

A covered worker is disabled if the person is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that is expected to result in death or either has continued or is expected to continue without interruption for a period of at least 12 months unless alcoholism or drug addition is a contributing material factor. For blindness that occurs after age 54, the inability must be to engage in the person's usual occupation.

The Social Security primary insurance amount calculation for the Social Security old age benefit also applies to the Social Security disability benefit coverage.

Social Security disability benefits are not subject to the earnings test and limits applicable to Social Security old age benefits, but workers compensation benefits may be offset if the benefit combined with workers compensation and certain governmental disability programs exceed 80 percent of average current earnings, which is typically the average monthly earnings for the highest year in the six years of covered employment ending with the year in which the disability occurred. Social Security disability benefits are also subject to the windfall offset reduction that is applicable to Social Security old age benefits.

c. Social Security Benefit For Dependent of Living Recipient

The spouse, the divorced spouse, the child, or the grandchild of a Social Security old age benefit recipient or a Social Security disability benefit recipient will be entitled to a Social Security dependent benefit. The dependent benefit is 50 percent of the primary insurance amount subject to early receipt reductions after age 61 and before age 65 for dependent spouses and former spouses and subject to a family maximum benefit.

The dependent spouse benefit automatically applies to the spouse of an old age benefit recipient or a disability benefit recipient who is at least age 62. The dependent spouse benefit applies to the former spouse of an old age benefit recipient or a disability benefit recipient if the person is unmarried or is remarried after age 60 (age 50 if disabled), was married for at least ten years before the divorce and the divorce occurred after the benefit recipient began receipt or occurred two years before benefit receipt. The dependent spouse benefit also applies to the spouse who cares for a child under age 16 or is disabled, is unmarried, and is under age 22. The dependent child benefit applies to an unmarried child of a recipient who is either under age 18, is under 19 if a full-time elementary or secondary school student, or becomes disabled before age 22, when eligibility is continuing. The dependent grandchild benefit is identical in its requirements to the dependent child benefit, but additionally requires that the grandchild's parents must be deceased or must be disabled.

The family maximum benefit limits the total amount of benefits payable with respect to the record of each covered worker or benefit recipient. For covered workers turning age 62 in 1996, the family maximum benefit formula for old age benefits and dependent benefits is as follows:

150 percent of the first \$559 of the primary insurance amount, plus  
272 percent of the primary insurance amount between \$559 and \$806, plus  
134 percent of the primary insurance amount between \$806 and \$1,052, plus  
175 percent of the primary insurance amount in excess of \$1,052.

The disability benefit family maximum benefit is the smaller of the following:

The larger of 85 percent of the average indexed monthly earnings or 100 percent of the primary insurance amount; or  
150 percent of the primary insurance amount.

A government pension offset also applies to dependent spouse benefits. The Social Security dependent spouse benefit will be reduced by 66.67 percent of the amount of any public pension benefit payable to the spouse based on the spouse's own work in employment not covered by Social Security. Thus, a retiring State Patrol trooper who is the dependent spouse of a Social Security old age benefit recipient will have an amount equal to 85 percent of the State Patrol Retirement Plan single life age and service retirement annuity offset against the 50 percent of the primary insurance amount dependent spouse benefit otherwise payable on account of the spouse of the trooper retiring with a Social Security old age benefit.

d. Social Security Survivor Benefits

The surviving spouse, the surviving former spouse, the surviving child, the surviving grandchild, or the surviving parent of a deceased covered worker or benefit recipient will be entitled to a Social Security survivor benefit. The surviving spouse or surviving former spouse benefit is either 100 percent or 75 percent of the covered worker's primary insurance amount, the surviving child or grandchild benefit is 75 percent of the covered worker's primary insurance amount, and the surviving parent benefit is 82.5 percent of the covered worker's primary insurance amount.

A surviving spouse or surviving former spouse of a covered worker or benefit recipient with at least 40 calendar quarters of coverage, if the spouse is either at least age 60 or is disabled and is at least age 50, is eligible for the 100 percent of the primary insurance amount. A surviving spouse or surviving former spouse of a covered worker or benefit recipient with at least six calendar quarters during the 13 quarter period ending with death, disablement, or the termination of active service, if the spouse is caring for a child who is under age 16 or who became disabled before reaching age 22 and is unmarried, is eligible for 75 percent of the primary insurance amount. A surviving child of a covered worker with at least six calendar quarters during the 13 quarter period ending with death, disablement, or the termination of active service, if the child; is unmarried and is under age 18, under age 19 and is a full time elementary or secondary school student, or is disabled before age 22 is eligible for 75 percent of the primary insurance amount. The same benefit applies to a surviving grandchild who meets the same requirements as a surviving child and whose parents are either dead or disabled. A surviving parent of a covered worker or benefit recipient with at least 40 calendar quarters of coverage, if the parent is dependent on the worker or recipient and the parent is at least age 62, is eligible for 82.5 percent of the primary insurance amount.

The family maximum benefit limits also apply to these survivor benefits as they do to dependent benefits. The government pension offset also applies to these survivor benefits.

**DATE:** December 21, 2005

*Public Employees Retirement Association*

*State of Minnesota*

**Office Memorandum**

**TO:** Senator Larry Pogemiller, Chair  
Legislative Commission on Pensions  
And Retirement

✓**CC:** Lawrence A. Martin, Exec. Dir.  
Legislative Commission on Pensions  
And Retirement

**FROM:** Mary Most Vanek, Executive Director  
Cheryl Keating, Account Information Manager and  
State Social Security Administrator

**SUBJ:** Legislative Proposal relating to Minnesota Statutes, Chapter 355

The attached legislative proposal amends Minnesota Statutes, Chapter 355, the state law governing Social Security and Medicare coverage for public employees, to allow any local governmental subdivision to provide Social Security coverage to elected officials holding positions covered by the Defined Contribution Plan administered by the Public Employees Retirement Association (PERA) and to allow certain Minnesota public retirement systems and Housing and Redevelopment Authorities to conduct a Medicare referendum.

Background – Social Security Coverage of Members of Public Employee Pension Plans

Governmental employees with coverage under a public employee pension plan are eligible for coverage under the federal Old Age, Survivors, and Disability Insurance program, more commonly known as Social Security, when an intergovernmental agreement (referred to as a Section 218 Agreement) has been established between the applicable state and the federal Department of Health and Human Services. In Minnesota, Social Security coverage for groups of employees covered by public retirement plans is authorized under Minnesota Statutes, Chapter 355.

Minnesota Statutes, Chapter 355, provides Social Security coverage to nearly all employees covered by a public employee pension plan through Section 218 Agreements. Chapter 355 does not, however, authorize a Section 218 Agreement for elected local governmental officials holding positions covered by the Defined Contribution Plan administered by PERA.

Under both state and federal laws, elected local officials participate in the Social Security program only if a) their positions are eligible for coverage in the Coordinated Plan administered by the Public Employees Retirement Association (PERA) or b) the elected official does not exercise his or her option to join the PERA Defined Contribution Plan (DCP)<sup>1</sup>.

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<sup>1</sup> Members of the Coordinated Plan receive Social Security coverage based on a Section 218 Agreement authorized under Minnesota Statutes, Chapter 355. Elected officials who are not

LCP & R DEC 27 2005

Membership in the Coordinated Plan is restricted to non-governing body elected positions having compensation of at least \$425 in any month. Newly elected officials holding positions that are part of the governing body in the governmental subdivision are prohibited under Minnesota law from joining the Coordinated Plan. (Law change effective July 1, 2002.)

Persons elected to local governing-body positions may obtain coverage under the PERA Defined Contribution Plan or the Social Security program. Dual coverage under the DCP and Social Security for newly elected governing-body officials is not allowed at this time.

Under federal law, states must have authority under state law and the state Section 218 Agreement to extend Social Security coverage to employees in positions under a retirement system. As the designated State Social Security Administrator for Minnesota, we prepared the attached proposal on behalf of local governmental subdivisions. The proposal does not require all local units of government to provide Social Security coverage to elected officials under a Section 218 modification (as has historically been done with other public employee groups) because most local employer units do not want a statewide mandate<sup>2</sup>. Instead, the proposal allows each local unit of government to determine whether or not to provide Social Security coverage to its local elected positions through a Section 218 Agreement. This approach allows our agency to modify the Minnesota Section 218 Agreement as requested by local units of government without amending Minnesota Statutes, Chapter 355, each time the extension of Social Security coverage is made.

If this proposal were enacted into Minnesota law, any requesting local governmental subdivision in the state would be able to provide Social Security coverage prospectively to newly elected officials following a modification to the state Social Security 218 Agreement. (The current Social Security contribution rates are 6.2% of pay for both the employer and employee). As required by federal law, a referendum would be held by the employer desiring inclusion in the Section 218 Agreement to determine which of its current DCP-covered elected officials want to begin to participate in Social Security for their elected public service. Each local unit of government would establish an effective date for the Social Security coverage of and would be required to pay the employer portion (6.2%) of any retroactive coverage they authorize for elected officials.

#### Background – Medicare Coverage of Members of Public Employee Pension Plans

All public employees hired after March 31, 1986, are required to participate in Medicare (Current Medicare contribution is 1.45% for both the employee and employer.) For state and local government employees hired before April 1, 1986, Medicare coverage could be elected

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covered by a public employee pension plan (such as the DCP) must have mandatory Social Security and Medicare coverage under federal laws effective July 2, 1991.

<sup>2</sup> Local governmental employers have varying views on this matter. Employers participating in the Minnesota School Boards Association and the League of Cities would like the decision on Social Security coverage for elected officials to be an independent one made by each employer. Members of the Association of Counties were split between requiring all local governmental units to provide Social Security coverage and leaving the determination of such coverage as it is now. Townships overwhelmingly prefer to leave the decision about Social Security coverage for elected officials as it is based on the type of elected position and retirement plan choice made by the official.

under a Section 218 Agreement. In Minnesota, virtually all public employees were allowed to make an irrevocable individual election to prospectively participate in Medicare through referendums conducted on two dates by the applicable retirement system. The following retirement systems have or may have members who did not elect Medicare coverage through the referendum process:

1. The Minneapolis Employees Retirement Fund (pre-1979 hires);
2. The Minneapolis Teachers Retirement Fund Association Basic Program (pre-1978 hires)
3. The Public Employees Basic Plan (pre-1967 hires)
4. The Teachers Retirement Association Basic Program (pre-1959 hires)
5. The St. Paul Teachers Retirement Fund Association Basic Program (pre-1978 hires)

Under federal law, states must have authority under state law and the state Section 218 Agreement to extend Medicare coverage to eligible public employees. Minnesota Statutes, Chapter 355, does not provide any opportunity for a public employee retirement plan or Housing and Redevelopment Authority to conduct a referendum on Medicare coverage for pre-1986 employees who do not have such coverage.

The attached proposal modifies Minnesota Statutes, Chapter 355, to allow the applicable retirement plans the opportunity to once again conduct Medicare-only referendums for their pre-1986 members as allowed by federal law. Housing and Redevelopment Authorities would also be able to initiate a Medicare-only referendum as had been allowed under Minnesota Statutes, Chapter 355, prior to August 2002. We have had two requests for this modification to state law in the last four months. (Please see the attached letters from Mark Dayton's Office and the Dakota County Community Development Agency.)

MARK DAYTON  
MINNESOTA

COMMITTEES:  
AGRICULTURE, NUTRITION,  
AND FORESTRY  
ARMED SERVICES  
GOVERNMENTAL AFFAIRS  
RULES AND ADMINISTRATION

## United States Senate

WASHINGTON, DC 20510-2305

### METRO OFFICE:

FEDERAL BUILDING  
1 FEDERAL DRIVE, SUITE 208  
FORT SNELLING, MINNESOTA 55111  
(612) 727-5220  
(888) 224-9043  
FAX: (612) 727-5223  
Health Care Help Line: (888) 208-4310

September 15, 2005

Ms. Mary Most Vanek  
Executive Director  
Public Employees Retirement Association of Minnesota  
60 Empire Drive  
Suite 200  
St. Paul, MN 55103-2088

Dear Ms. Most Vanek:

I am writing on behalf of my constituent, Ms. Marie Sikora. Please find a copy of her letter enclosed.

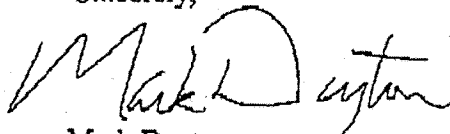
Ms. Sikora, a Minneapolis city employee of nearly 30 years, contacted my office for assistance because she recently discovered that she will not be eligible for Medicare upon retirement.

It is my understanding that the Public Employees Retirement Association of Minnesota (PERA) has already drafted legislation that would make a city-initiated referendum permissible under Minnesota state law. I realize that this is a preliminary step to begin to help Ms. Sikora, but I greatly appreciate the effort PERA is making in this matter. I hope the attached letter from Ms. Sikora further assists you in this process.

If possible, my office would like to be kept up-to-date in this issue. Kali McGuire, a member of my Fort Snelling staff, may be contacting you as well to discuss Ms. Sikora's situation. If you need any additional information, you can contact Kali at (612) 727-5225.

My best regards.

Sincerely,



Mark Dayton  
United States Senator

Attachment

WASHINGTON OFFICE:  
123 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-3244  
FAX: (202) 225-2166

REGIONAL OFFICES:  
401 DEMERS AVENUE  
EAST GRAND FORKS, MINNESOTA 55721  
(218) 773-1110  
FAX: (218) 773-1999

222 MAIN STREET, SUITE 200  
PORT OFFICE BOX 837  
BRIMAB, MINNESOTA 55708  
(218) 865-4480  
FAX: (218) 865-4567

POST OFFICE BOX 608  
RENNVILLE, MINNESOTA 58284  
(320) 935-3007

09/16/2005 14:45 FAX 612 727 5223

SENATOR DAYTON

SEP-16-2005 12:25

MPLS. CONVENTION CENTER

003/003

P.02/02

September 16, 2005

Dear Senator Dayton,

This letter is to respectfully request your help for a situation I thought I would never find myself in - No Medicare Coverage.

First, let me tell you a little something about my working background. I am single, 50 years old, and have been working almost 30 years as a clerical employee for the City of Minneapolis. I have always enjoyed my work and assisting the public and have no intention of retiring at this time, but I recently received a statement from MERF (Minneapolis Employee Retirement Fund) and thought it would be a good time to inquire about my pension status and beneficiaries.

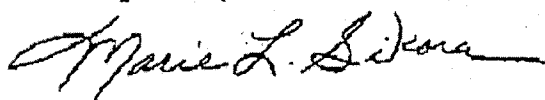
As we were discussing options, the MERF representative, Timothy Caza, clarified that I would not be getting Social Security. I was aware of that, as government employees did not fall under the Social Security umbrella during employment at the time I started with the City of Minneapolis. He then said, "this includes no Medicare." Mr. Caza estimated that, without Medicare coverage, my future retirement monthly medical insurance costs would be well over \$1000.00 by today's standards and will continually increase each year. Senator Dayton, I was in shock, I had no idea about this.

A recent MERF retiree told me that there is a program in which money can be deducted from your paycheck for Medicare Benefits. During the following week, I tried calling the 800 Social Security Number, our Pension Office and the City's Benefits Department to try to find out about this program, all to no avail.

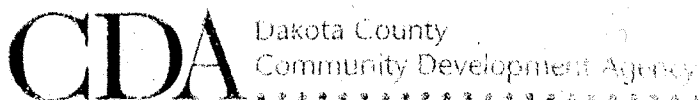
Feeling overwhelmed, I wrote to your office and received a reply from Kali McGuire, who researched this for me over the past months and kept me informed. There are several other MERF employees in this situation and any support you can give us would be greatly appreciated.

Thank you for your time and for the wonderful service you are doing for us in Washington. May God Bless you and your staff.

Respectfully Yours,



Marie L. Sikora



RECEIVED  
SEP 15 2005  
D. M. Paul, Jr.  
Retirement Assn.

September 12, 2005

Cheryl Keating  
Public Employees Retirement Association of MN  
60 Empire Drive, Suite 200  
St. Paul, Minnesota 55103-2088

Re: Social security coverage

Cheryl, as we discussed over the phone, I would very much appreciate your confirming my understanding of what we have discussed and concluded over the course of several phone conversations over the past several weeks regarding our agency's ability to include certain Dakota County Community Development Agency (CDA) employees in social security.

Current Situation

To ensure that I have not inadvertently omitted any relevant facts during our phone conversations, I would like to briefly review some of the facts and circumstances surrounding our current situation.

The CDA (originally the Dakota County Housing and Redevelopment Authority) was created in 1971 as a housing and redevelopment authority according to Chapter 469 of the Minnesota State Statutes.

The CDA and its employees do not participate in social security. The CDA does require all employees to participate in a defined contribution retirement plan called the Housing-Renewal and Local Agency Retirement Plan, a non-profit pension trust serving housing and redevelopment authorities throughout the country.

The CDA currently has 137 positions of which 74 are full-time positions, 62 are part-time positions and 1 is considered a limited-term position (i.e. a position with a defined ending date, e.g. temporary, emergency, or seasonal positions).

The 62 part-time positions are primarily related to the employment of on-site residential caretaker positions at numerous affordable housing developments that are owned and operated by the CDA. Many of these caretaker positions are at senior only buildings (age 55 or older) and caretakers for these buildings must be age eligible.

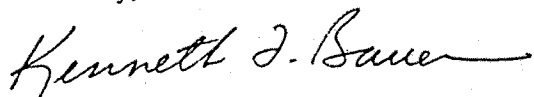
Over the past few years as employees have begun to retire, the CDA has learned that the age and gender of employees hired in these part-time caretaker positions makes it increasingly likely that many of them will be negatively impacted by the Government Pension Offset (GPO).



I would appreciate your confirming whether you agree with the preceding statements which document my understanding of our phone conversations. If you feel that some of these statements would be better handled by the Social Security Administration, I would very much appreciate your forwarding this letter to your social security contact and asking them to reply to me directly.

Your cooperation throughout this process has been very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth F. Bauer". The signature is written in dark ink and has a fluid, connected style.

Kenneth F. Bauer CPA, CPFO  
Finance Director

- 1.1 ..... moves to amend S.F. No. 2463; H.F. No. ...., as follows:
- 1.2 Page 3, line 30, delete everything after "on" and insert "July 1, 2006"
- 1.3 Page 3, delete line 31
- 1.4 Page 3, line 32, delete everything before the underscored period

A bill for an act  
relating to retirement; Social Security administration; making technical  
corrections; allowing for prospective and retroactive Social Security and  
Medicare coverage of certain governmental employees; requiring referenda;  
amending Minnesota Statutes 2004, sections 355.01, subdivision 3g; 355.02,  
subdivisions 1, 3, by adding subdivisions; proposing coding for new law in  
Minnesota Statutes, chapter 355.

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

Section 1. Minnesota Statutes 2004, section 355.01, subdivision 3g, is amended to read:

Subd. 3g. **Local governmental subdivision.** "Local governmental subdivision"  
means:

- (1) a political subdivision as defined in section 218(b) of the Social Security Act;
- (2) an instrumentality of the state;
- (3) an instrumentality of one or more of the political subdivisions of the state;  
~~including the League of Minnesota Cities;~~
- (4) an instrumentality of the state and one or more of its political subdivisions;
- (5) a governmental subdivision as defined in section 353.01, subdivision 6; and
- (6) any instrumentality established under a joint powers agreement under section  
471.59 wherein the instrumentality is responsible for the employment and the payment of  
the salaries of the employees of the instrumentality.

Sec. 2. Minnesota Statutes 2004, section 355.02, subdivision 1, is amended to read:

Subdivision 1. **General authority.** (a) The director, with the approval of the  
governor, is hereby authorized to enter into an agreement on behalf of the state, its political  
subdivisions and its other governmental employers, with the federal Secretary of Health

and Human Services, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old age, survivors, and disability insurance system to employees of the state or any political subdivision thereof who hold positions covered by a retirement system with respect to services specified in the agreement which constitute "employment;" ~~whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the Social Security Act.~~

(b) ~~Under this specific authorization~~ The agreement may contain those provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the director and the federal Secretary of Health and Human Services shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement must provide in effect that:

(1) benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though those services constituted employment within the meaning of title II of the Social Security Act;

(2) the state or other employer will pay to the federal Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) the agreement is effective with respect to services in employment covered by the agreement performed after a date specified therein; and

(4) all services which constitute employment and are performed in the employ of the state or any of its political subdivisions by employees thereof, may be covered by the agreement ~~whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the Social Security Act.~~

Sec. 3. Minnesota Statutes 2004, section 355.02, subdivision 3, is amended to read:

Subd. 3. **Groups covered by Social Security.** (a) The following groups having coverage under a retirement plan in section 356.30, subdivision 3, except clauses (4) and (8) must be covered by an agreement or a modification to an agreement between the director and the federal Secretary of Health and Human Services:

(1) constitutional officers;

(2) Duluth teachers;

- 3.1 (3) educational employees;
- 3.2 (4) higher education employees;
- 3.3 (5) hospital employees;
- 3.4 (6) judges;
- 3.5 (7) legislators;
- 3.6 (8) Minneapolis teachers;
- 3.7 (9) public employees;
- 3.8 (10) St. Paul teachers; and
- 3.9 (11) ~~special authority or district employees; and~~
- 3.10 (12) state employees.

3.11 (b) The following groups must be covered prospectively following the referendum  
 3.12 in subdivision 4 and the modification to the state Social Security agreement under  
 3.13 subdivision 1:

3.14 (1) special authority or district employees in positions covered by a retirement plan  
 3.15 provided by the employer, and

3.16 (2) local elected officials of a local governmental subdivision, special authority, or  
 3.17 district holding positions covered by the defined contribution plan under chapter 353D.

3.18 (c) Each local governmental subdivision, special authority, or district desiring  
 3.19 inclusion in the state Social Security agreement for groups covered by paragraph (b) must  
 3.20 request such coverage by submitting a formal resolution to the director, including therein  
 3.21 the desired starting date for Social Security coverage.

3.22 (d) For purposes of paragraph (b), clause (2), the defined contribution plan of the  
 3.23 Public Employees Retirement Association is considered a separate retirement system with  
 3.24 respect to each local governmental subdivision, special authority, or district, and the  
 3.25 elected officials in a local governmental subdivision, special authority, or district must be  
 3.26 treated separately and independently from the other governmental subdivisions.

3.27 Sec. 4. Minnesota Statutes 2004, section 355.02, is amended by adding a subdivision  
 3.28 to read:

3.29 Subd. 4. **Referendum.** The director shall authorize and supervise a referendum  
 3.30 under section 218(d)(6)(C) of the Social Security Act to be held on the date or dates set  
 3.31 by the local governmental subdivision, special authority, or district desiring inclusion  
 3.32 under subdivision 3, paragraph (b). The referendum must permit each eligible employee  
 3.33 the opportunity to elect Social Security coverage. The notice of referendum required by  
 3.34 section 218(d) of the Social Security Act must contain a statement sufficient to inform  
 3.35 the person of the rights which accrue under the Social Security Act and the employee

contribution rates applicable to the program. The cost of the referendum is to be borne by the governmental subdivision. The director, on receiving satisfactory evidence that the conditions required by section 218 of the Social Security Act have been met, must so certify to the Secretary of Health and Human Services.

Sec. 5. Minnesota Statutes 2004, section 355.02, is amended by adding a subdivision to read:

Subd. 5. **Retroactive Social Security coverage.** (a) An employee or elected official who elects Social Security coverage under subdivision 4 may obtain retroactive coverage for the period specified in the modification of the agreement if the individual is employed by the local governmental subdivision, special authority, or district on the date of the modification of the agreement. The employee or elected official must pay an amount equal to the taxes which would have been imposed on the person by the Federal Insurance Contributions Act had the service been covered at the time performed. The employing local governmental subdivision, special authority, or district must pay the necessary employer contributions for the retroactive period. Nothing in this section shall require an employee or elected official to elect retroactive Social Security coverage.

Sec. 6. **[355.095] OPTIONAL MEDICARE COVERAGE FOR CERTAIN PUBLIC EMPLOYEES.**

Subdivision 1. **Agreement.** (a) The director, on behalf of the state, its political subdivisions, and its other governmental employers, is authorized to enter into an agreement with the Secretary of Health and Human Services to extend the provisions of United States Code, title 42, section 426, 426-1, and 1395c, to the employees in paragraph (b) who meet the requirements of United States Code, title 42, section 418(v)(2) and who do not have coverage by the federal old age, survivors, and disability insurance program for that employment under any previous modification of the agreement or previous Medicare referendum.

(b) The applicable employees are:

(1) employees who are members of one of the retirement plans in section 356.30, subdivision 3, except clauses (4) and (8) based on continuous employment since March 31, 1986; and

(2) employees of a special authority or district who have been continuously employed by the special authority or district since March 31, 1986.

Subd. 2. **Referendum.** (a) Each local governmental subdivision, special authority, or district desiring inclusion in the state Social Security agreement under subdivision 1

must request such coverage by submitting a formal resolution to the director, including therein the desired starting date for Social Security coverage.

(b) The director shall authorize a referendum on the question of extending the provisions of United States Code, title 42, sections 426, 426-1, and 1395c. The director shall supervise the referendum in accordance with the requirements of United States Code, title 42, section 418, on the date or dates set. The cost of such referendum must be borne by the requesting retirement plan, or the requesting special authority or district. The notice of the referendum provided to each eligible employee must contain a statement sufficient to inform the person of the rights available as an employee in Medicare qualified government employment and the employee contribution rates applicable to the program. The referendum must permit each eligible employee the opportunity to vote in such referendum in accordance with the requirements in the Social Security Act. The director, on receiving satisfactory evidence that the conditions specified in United States Code, title 42, section 418(d)(7) have been met, must so certify to the Secretary of Health and Human Services.

Subd. 3. **Contributions.** Employers must pay the necessary employer contributions and make the necessary deductions from salary for employees who elect to participate in the federal Medicare program under this section and as required by federal law.

Subd. 4. **Retroactive Medicare coverage.** (a) An individual who obtains medicare coverage through the referendum under subdivision 2 may obtain retroactive coverage for the period specified in the modification of the agreement if employed by the governmental subdivision, special authority, or district on the date of the modification of the agreement. The individual must pay an amount equal to the Medicare taxes which would have been imposed on the employee had the service been covered at the time performed. The employing local governmental subdivision, special authority, or district must pay the necessary employer contributions for the retroactive Medicare coverage period. Nothing in this section shall require an employee or elected official to elect retroactive Medicare coverage.

**Sec. 7. EFFECTIVE DATE.**

Sections 1 to 6 are effective the day following final enactment.