



H.F. xxxx

S.F. 1643
(Senjem)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special legislation
General Nature of Proposal: Authorizes the commencement of a PERA-General annuity for a city council member while remaining in elected office.
Date of Summary: March 3, 2008

Specific Proposed Changes

- Permits an elected city council member with PERA-General coverage for that service to commence annuity while remaining in elected office, providing the PERA-General coverage is ended.

Policy Issues Raised by the Proposed Legislation

1. Personal responsibility; equity concerns with permitting an individual to reverse coverage election.
2. Question of whether PERA should have permitted the individual to have PERA-General coverage for the elected service.
3. Consistency with prior legislative treatment in similar situation.
4. Self-help remedy; the individual could terminate from elected office, eliminating the need for special law treatment.

Potential Amendment

S1643-1A is a technical amendment, changing a reference from "retired" to "terminated".



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: H.F. xxxx; S.F. 1643 (Senjem): PERA-General; Authorizing Olmstead County Employee/
Rochester City Council Member to Terminate Plan Coverage and Commence Annuity
DATE: March 3, 2008

Summary of H.F. xxxx; S.F. 1643 (Senjem)

H.F. xxxx; S.F. 1643 (Senjem) allows a General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) member, with past PERA-covered service as a school district employee and with current employment with Olmstead County and as an elected city council member, who elected PERA-General coverage for that elected service, to be treated as a PERA-General terminated member following termination of the Olmstead County employment, enabling the individual to commence drawing a PERA-General annuity although the individual remains in elected service.

Public Pension Problem of Sandra Means, Addressed by H.F. xxxx; S.F. 1643 (Senjem)

The eligible individual, Sandra Means, was an employee of Independent School District No. 535, Rochester, from 1993 to 2003, with PERA-General coverage for that employment. Ms. Means was elected to the Rochester City Council in 2003 and continues to serve. Ms. Means also works on a contract basis for Olmstead County. When Ms. Means was elected to the city council, she elected PERA-General coverage for that elected service. Ms. Means wants to commence receipt of a PERA-General annuity after terminating from the Olmstead County employment, but while continuing to service on the city council, which is not possible under general law because the individual remains an active PERA-General member due to the covered city council employment.

Ms. Means is seeking legislative help to address a pension problem that appears to be self-inflicted, caused by the individual's election of PERA-General coverage for the elected service.

Background Information

- A. Background information on PERA-General appears in Appendix A.
- B. Background information on the PERA Defined Contribution Plan appears in Appendix B.
- C. Background information on legislative actions in situations bearing similarity to the current request appears in Appendix C.

Discussion and Analysis

H.F. xxxx; S.F. 1643 (Senjem) allows a General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) member, with past PERA-covered service as a school district employee and with current employment with Olmstead County and as an elected city council member, who elected PERA-General coverage for that elected service, to be treated as a PERA-General terminated member following termination of the Olmstead County employment, enabling the individual to commence drawing a PERA-General annuity although the individual remains in elected service.

A question raised by this bill is whether Ms. Means should have been permitted access to PERA-General for the elected service. The options for elected officials were revised by the 2001 Legislature, when PERA-General law was revised in an effort to exclude newly elected local government officials (those first taking office after July 1, 2002) from PERA-General coverage for that elected or appointed service (Laws 2001, First Special Session, Chapter 10, Article 11, Section 4). According to H.F. xxxx; S.F. 1643 (Senjem), this individual was first elected in 2003, which is after the date on which newly elected local government officials were to be excluded from that plan. Ms. Vanek, PERA's Executive Director, has indicated that PERA interpreted the 2001 language as being applicable to all newly elected officials who were not already members of PERA-General, due either to elected service or non-elected service. In the case of Ms. Means, she was already an active PERA-General member due to other public employment, and because of that other service she was permitted to access PERA-General for the elected service

although the elected service did not commence until 2003. This elected official exclusion language was again revised in 2007 (Laws 2007, Chapter 134, Article 2, Section 14), to remove any question on this eligibility issue. No newly elected official, whether or not he or she is already a PERA member due to non-elected service, can be covered by PERA-General for that elected employment.

The proposed legislation raises the following pension and related public policy issues:

1. Personal Responsibility; Equity Issues. Ms. Means made a decision to have elected employment covered by PERA-General, a decision which she now regrets. Unless it can be documented that Ms. Means was somehow misled, the Commission may conclude that no legislative action is warranted. However, the Commission and Legislature has granted relief in the recent past to a city council member in a similar situation.
2. Possible Error by PERA. An issue is whether PERA erred in permitting Ms. Means to elect PERA-General coverage for the elected service. If the Commission were to conclude that the 2001 language was sufficiently clear regarding the PERA-General exclusion of newly elected officials, then the Commission may contend that PERA erred in permitting this individual access to PERA-General. Allowing the individual to terminate coverage by that plan despite continuing as an elected official may be justified on that basis.
3. Prior Legislative Actions, Proper Model for Legislation. The bill as drafted is modeled after the language used in 2003 to provide a solution in a similar situation. Description of that 2003 legislation and earlier efforts to provide resolution to similar pension problems is found in Appendix C.
4. Pressure for Additional Requests. The Commission may wish to consider that authorizing any change in coverage or deletion of coverage may lead to other requests for comparable treatment.
5. Self-Help Remedy. Given the policy issues raised by any legislative effort to address these types of situations, the Commission may wish to consider that Ms. Means has a self-help remedy; she can resign from the city council and the county employment and commence receipt of an annuity.

Potential Amendment for Commission Consideration

- Amendment S1643-1A is a technical amendment, changing “retired” on page 1, line 15, to “terminated”. Ms. Means terminated employment with Independent School District No. 5353, Rochester in 2003, but has not retired from that school district because the annuity has not commenced.

Appendix A
Background Information on the
General Employee Retirement Plan of the
Public Employees Retirement Association (PERA-General)

The General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) is governed by Minnesota Statutes, Chapter 353, and various other provisions of law. It is a defined benefit retirement plan that provides disability coverage, survivor benefits, and retirement coverage to over 146,000 non-public safety employees throughout the state. PERA-General provides coverage to public employees (other than public safety employees) who work for the counties, cities, and in non-teaching positions in school districts. PERA currently has over 52,000 retirees and 39,000 deferred retirees. PERA-General assets exceed \$13.5 billion, but liabilities exceed \$17.7 billion, creating a funding ratio of 76 percent.

PERA-General is a defined benefit plan, meaning that the retirement benefit the plan provides is determined by formulas in law, which are based on the average of salary close to retirement (the average of the five consecutive years that provides the highest average salary), the percentage of that high-five salary that the individual receives per year of service (called an accrual rate), and the number of years of service. The normal retirement age is 65 to 66. That is the age at which an individual, following termination of covered service, can receive an annuity without any penalty due to early commencement of the benefit. Under law, a terminated employee may begin drawing annuity as early as age 55, but with a reduction due to early retirement.

In PERA-General or in any other of our defined benefit plans for paid public employees, the individual must terminate from the covered public employment prior to drawing the annuity. An individual cannot be an active member of a plan (in other words, an individual who continues to provide service covered by the plan and who makes contributions due to that service) and draw an annuity. This reflects the basic idea that retirement benefits are for retirees.

Appendix B
Background Information on the
Public Employees Retirement Association
Defined Contribution Plan

The Public Employees Retirement Association (PERA) Defined Contribution Plan, governed under Minnesota Statutes, Chapter 353D, and various other law, is an entirely different type of plan than PERA-General. Under a defined contribution plan, the benefit is not specified; rather, the contribution rates to the plan are specified or defined in law. The eventual benefit is determined by the accumulated value of the contributions made to the individual's account over time, plus the investment earnings on those contributions. The account's value at the time of retirement or disability is referred to as the "terminal value." The monthly benefit that can be paid is the monthly value that can be supported given the terminal value and the individual's expected remaining lifetime. Under the PERA Defined Contribution Plan, the terminal value is payable in a lump sum at the withdrawal date, or the individual may specify that the amount be transferred to an insurance company or other annuity provider, with the proceeds used to purchase an annuity.

The PERA Defined Contribution Plan began in 1987, with the enactment by the Legislature of a defined contribution plan (the Ambulance Service Retirement Fund) for certain basic and advanced life support emergency medical service personnel. In 1990, the plan was renamed the Public Employees Defined Contribution Plan and membership was expanded to include elected and appointed local government officials other than county sheriffs (county sheriffs are members of the Public Employees Police and Fire Retirement Plan). Because of the change in possible coverage, local government officials who were PERA-General members were given a chance to elect, prior to July 1, 1990, to terminate PERA-General coverage and to become members of the defined contribution plan, retaining a right in PERA-General to a refund or deferred annuity. If a local elected official did not have PERA-General coverage or coverage by some other plan for the prior elected service, the participating elected local government official was authorized to make prior service contributions to the defined contribution plan equal to the contributions that would have occurred if the plan had been in effect, plus six percent interest. PERA Defined Contribution Plan coverage was again expanded in 1996 to allow certain physicians who are local government employees to elect PERA Defined Contribution Plan coverage rather than PERA-General.

Appendix C

Prior Legislative Actions Similar to the Current Request

Commission staff reviewed all provisions enacted relating to local elected officials from 1987 to the current date and found some similar situations, with the 1998 and 2003 situations being most similar.

- 1990 Legislation. When the Public Employees Retirement Association (PERA) Defined Contribution Plan was first expanded to include elected local government officials, officials with prior PERA General Employee Retirement Plan (PERA-General) coverage for the elected service were given a chance to elect, prior to July 1, 1990, to terminate PERA-General coverage and to become members of the PERA Defined Contribution Plan, retaining a right in PERA-General to a refund or deferred annuity. Presumably, the Legislature created defined contribution plan coverage for elected officials because it felt that this form of coverage was more suitable, at least for some. The provision to allow previously elected officials to transfer coverage to the PERA Defined Contribution Plan presumably reflects a legislative position that these individuals should not be forced to retain defined benefit coverage now that a more suitable option had been created. This is a different situation than that of the individual covered by the current bill.
- 1993 Legislation. In 1993, the Legislature was asked to authorize another election for elected officials to transfer prospective coverage to the PERA Defined Contribution Plan (1993 Session S.F. 871 (Lessard); H.F. 1214 (Anderson)). The election would have had to be made by July 1, 1993. The Legislative Commission on Pensions and Retirement heard the bill and recommended that it not pass.

A provision did pass as part of an Omnibus Pension Bill in 1993 which addressed a pension problem for an individual who would have been covered by the Lessard/Anderson bill, but the provision went beyond the treatment proposed in the Lessard/Anderson bills. The provision permitted a Deer River City employee, who was born on March 3, 1939, who was an elected official of Blackberry Township from 1972 to March 1990, to make contributions to the PERA Defined Contribution Plan based on that past elected service, and authorized a transfer of prospective city employment service coverage to the PERA Defined Contribution Plan. However, the language did include a requirement that no refunds or annuities could commence from any plan until the individual had terminated all service covered by PERA-General and the PERA Defined Contribution Plan. The provision presents considerable pension policy issues, and Commission staff has found no record that the provision was ever heard or approved by the Commission. The provision may have become part of the pension bill through a floor amendment.

- 1998 Legislation. In 1998, the Commission considered a blind amendment, LCPR98-47, to allow a PERA Coordinated member, who contributed to the plan due to Suburban Hennepin County Regional Park district employment and also due to employment as a current elected member of the Minneapolis Park and Recreation Board, to begin drawing an annuity upon termination from the non-elective position although he continues as an elected official. The high-five average salary would be computed on the salary from his non-elected service position only. Relating to the elected or appointed service, within one year the individual could elect a refund of past contributions due to that service or Public Employees Defined Contribution Plan coverage. If the defined contribution plan coverage is elected, past contributions (employee and employer) due to appointed or elected service on the Park Board will transfer to the defined contribution plan with six percent interest. Amendment LCPR98-47 was recommended to pass and became Laws 1998, Chapter 390, Article 3, Section 19.
- 2003 Legislation. In 2003, the Legislature addressed the pension problem of a Bemidji City Council member who was elected to the Bemidji City Council in 2000, taking office in 2001. The individual was also a Beltrami County employee, with PERA-General coverage. The individual elected PERA-General coverage for her elected city council service, and at some point terminated from the county employment. The individual wanted to start drawing a PERA-General annuity but is unable to do so because she remained a PERA-General active plan member due to her election of PERA-General coverage for the city council service.

The Commission recommended a solution which was enacted as Laws 2003, First Special Session, Chapter 12, Article 15, Section 5. Like the 1998 legislation, the 2003 legislation treated the individual as though they had not chosen PERA-General coverage for the elected service. That allowed the individual to commence receipt of the PERA-General annuity. The PERA-General annuity was to be computed based on the county service only, excluding elected service salary and service credit. The individual was given an opportunity to elect PEDC coverage for the elected service. If that election were made, the prior contributions to PERA-General made on the elected service transfer to a PERA Defined Contribution Plan account for the individual, plus six percent interest. If the individual did not want PERA Defined Contribution Plan coverage for the elected employment, the individual would receive a refund with interest from PERA-General based on the employee contributions that the individual made to that fund for the elected service.

Sec. 4. Minnesota Statutes 2000, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following public employees ~~shall~~ are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) ~~elected~~ public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office, ~~who do not elect to participate in the association by filing an application for membership of a governing body, whose term of office first commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;~~

(2) election officers or election judges;

(3) patient and inmate personnel who perform services ~~in~~ charitable, penal, or correctional institutions ~~of~~ for a governmental subdivision;

(4) employees who are hired for a temporary position under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision, ~~but not those. An employer must not apply the definition of temporary position so as to exclude employees who are hired for an unlimited period to fill positions that are permanent or that are for an unspecified period but who are serving a probationary period at the start of the employment. If the period of employment extends beyond six consecutive months and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.~~

The membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary and nontemporary positions in one governmental subdivision is determined by the length of employment and salary of each separate position;

(5) ~~employees whose actual salary from one governmental subdivision does not exceed \$425 per month, or whose annual salary from one governmental subdivision does not exceed a stipulation prepared in advance, in writing, that the salary must not exceed \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration;~~

~~(6)~~ employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

~~(7)~~ (6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees retirement association, or any local police or firefighters consolidation account but who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other

service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

~~(6)~~ (7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

~~(9)~~ full-time students who ~~(8)~~ employees who at the time they are hired by a governmental subdivision are enrolled and on a full-time basis to attend or are regularly attending classes at an accredited school, college, or university and who are part-time employees as defined by a governmental subdivision in an undergraduate, graduate, or professional-technical program, or a public or charter high school, if the employment is predicated on the student status of the individual;

~~(10)~~ (9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

~~(11)~~ (10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

~~(12)~~ (11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

~~(13)~~ (12) foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens are eligible for membership from the date of the extension;

~~(14)~~ (13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

~~(15)~~ (14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

~~(16)~~ (15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

~~(17)~~ (16) pipefitters and associated trades personnel employed by independent school district No. 625, St. Paul, with coverage by the pipefitters local 455 pension plan under a collective bargaining agreement who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12; and

~~(18)~~ (17) electrical workers, plumbers, carpenters, and associated trades personnel employed by independent school district No. 625, St. Paul, or the city of St. Paul, with who have retirement coverage by the electrical workers local 110 pension plan, the united association plumbers local 34 pension plan, or the carpenters local 87 pension plan under a collective bargaining agreement who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5-;

(18) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each business year of the governmental subdivision;

(19) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(20) independent contractors and the employees of independent contractors; and

(21) reemployed annuitants of the association during the course of that reemployment.

Sec. 5. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION COVERAGE TERMINATION.]

Subdivision 1. [ELIGIBILITY.] (a) An eligible individual specified in paragraph (b) is authorized to apply for a retirement annuity, provided necessary age and service requirements are met, under Minnesota Statutes, section 353.29 or 353.30, as applicable, as further specified under subdivision 2.

(b) An eligible individual is an individual who:

(1) was employed as a Beltrami county employee and became a member of the public employees retirement association general plan due to that service on June 1, 1991;

(2) was elected to the Bemidji city council and took office in January 2001;

(3) elected under law then applicable to have public employees retirement association general plan coverage for the city council elected service; and

(4) terminated Beltrami county employment but is unable to commence receipt of a public employees retirement association general plan annuity because of the continuing public employees retirement association general plan coverage for the elected city council service.

Subd. 2. [RETIREMENT ANNUITY.] (a) Notwithstanding an irrevocable election to participate in the public employees retirement association general plan as an elected official and continuation of elected service, an eligible individual under subdivision 1, paragraph (b), is deemed to have terminated membership under Minnesota Statutes, section 353.01, subdivision 11b, following the termination of the Beltrami county employment.

(b) If the requirements of paragraph (a) are satisfied, the eligible individual may apply for a retirement annuity under Minnesota Statutes, section 353.29 or 353.30, as applicable. In computing the annuity, the public employees retirement association must exclude salary due to the elected Bemidji city council service. Deferred annuity augmentation under Minnesota Statutes, section 353.71, applies to this annuity.

Subd. 3. [TREATMENT OF BEMIDJI CITY COUNCIL CONTRIBUTIONS TO THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.] (a) All employee contributions to the public employees retirement association coordinated plan by an eligible individual in subdivision 1, paragraph (b), due to the elected Bemidji city council service, and all corresponding employer contributions, must be determined.

(b) An eligible individual under subdivision 1, paragraph (b), must elect, within one year of the effective date of this section or upon termination of elective service, whichever is earlier, a refund under Minnesota Statutes, section 353.34, subdivision 2, of employee contributions determined under paragraph (a), or coverage by the public employees defined contribution plan under Minnesota Statutes, chapter 353D, as further specified in paragraph (c).

(c) If public employee defined contribution plan coverage is elected under paragraph (b), contributions to that plan commence as of the first day of the pay period following this election, and accumulated employee and employer contributions determined under paragraph (a) must be transferred with six percent annual interest to an account for the eligible individual in the public employees defined contribution plan.

(d) If no election is made by an eligible individual by the required date in paragraph (b), the individual is assumed to have elected the refund indicated in paragraph (b).

(e) Upon an election under paragraph (b), or a mandatory refund under paragraph (d), all rights in the public employees retirement association coordinated plan due to elected Bemidji city council service are forfeited and may not be reestablished.

Sec. 14. Minnesota Statutes 2006, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** The following public employees are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office commences on or after July 1, 2002, for the service to be rendered in that elective position. ~~Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;~~

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties;

provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the Metropolitan Airports Commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

EFFECTIVE DATE. This section is effective the day following final enactment.

1.1 moves to amend H.F. No.; S.F. No. 1643, as follows:

1.2 Page 1, line 15, delete "retired" and insert "terminated"

Senator Senjem introduced--

S.F. No. 1643: Referred to the Committee on State and Local Government Operations and Oversight.

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; authorizing
1.3 application for a retirement annuity.

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

1.5 Section 1. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION COVERAGE
1.6 TERMINATION.

1.7 Subdivision 1. Eligibility. (a) An eligible individual specified in paragraph (b)
1.8 is authorized to apply for a retirement annuity, provided necessary age and service
1.9 requirements are met, under Minnesota Statutes, section 353.29 or 353.30, as applicable,
1.10 as further specified under subdivision 2.

1.11 (b) An eligible individual is an individual who:

1.12 (1) was employed by Independent School District No. 535, Rochester, on October 6,
1.13 1993, and became a member of the Public Employees Retirement Association coordinated
1.14 plan;

1.15 (2) retired from Independent School District No. 535, Rochester, on December
1.16 31, 2003;

1.17 (3) was elected to the Rochester City Council on April 22, 2003, and sworn in on
1.18 May 5, 2003;

1.19 (4) was reelected to the Rochester City Council and took office in November 2004;

1.20 (5) continued to work for Olmsted County on a contract basis, while serving on
1.21 the city council;

1.22 (6) elected under law then applicable to have Public Employees Retirement
1.23 Association coordinated plan coverage for the city council elected service; and

2.1 (7) terminated Independent School District No. 535, Rochester, employment but is
2.2 unable to commence receipt of a Public Employees Retirement Association coordinated
2.3 plan annuity because of the continuing Public Employees Retirement Association
2.4 coordinated plan coverage for the elected city council service and for Olmsted County.

2.5 Subd. 2. Retirement annuity. (a) Notwithstanding an irrevocable election to
2.6 participate in the Public Employees Retirement Association coordinated plan as an elected
2.7 official and continuation of elected service, an eligible individual under subdivision 1,
2.8 paragraph (b), is deemed to have terminated membership under Minnesota Statutes, section
2.9 353.01, subdivision 11b, following termination of the Olmsted County employment.

2.10 (b) If the requirements of paragraph (a) are satisfied, the eligible individual may
2.11 apply for a retirement annuity under Minnesota Statutes, section 353.29 or 353.30, as
2.12 applicable. In computing the annuity, the Public Employees Retirement Association
2.13 must exclude salary due to the elected Rochester City Council service. Deferred annuity
2.14 augmentation under Minnesota Statutes, section 353.71, applies to this annuity.

2.15 Subd. 3. Treatment of Rochester City Council contributions to the Public
2.16 Employees Retirement Association. (a) All employee contributions to the Public
2.17 Employees Retirement Association coordinated plan by an eligible individual in
2.18 subdivision 1, paragraph (b), due to the elected Rochester City Council service, and all
2.19 corresponding employer contributions, must be determined.

2.20 (b) An eligible individual under subdivision 1, paragraph (b), must elect, within
2.21 one year of the effective date of this section or upon termination of elective service,
2.22 whichever is earlier, a refund under Minnesota Statutes, section 353.34, subdivision 2,
2.23 of employee contributions determined under paragraph (a), or coverage by the public
2.24 employees defined contribution plan under Minnesota Statutes, chapter 353D, as further
2.25 specified in paragraph (c).

2.26 (c) If public employee defined contribution plan coverage is elected under paragraph
2.27 (b), contributions to that plan commence as of the first day of the pay period following
2.28 this election, and accumulated employee and employer contributions determined under
2.29 paragraph (a) must be transferred with six percent annual interest to an account for the
2.30 eligible individual in the public employees defined contribution plan.

2.31 (d) If no election is made by an eligible individual by the required date in paragraph
2.32 (b), the individual is assumed to have elected the refund indicated in paragraph (b).

2.33 (e) Upon an election under paragraph (b), or a mandatory refund under paragraph
2.34 (d), all rights in the Public Employees Retirement Association coordinated plan due to
2.35 elected Rochester City Council service are forfeited and may not be reestablished.

3.1 Sec. 2. EFFECTIVE DATE.

3.2 Section 1 is effective the day following final enactment.