



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JAM*
RE: PERA Minimum Salary Membership Threshold and Related Membership Inclusion and Exclusion Issues, First Consideration
DATE: August 20, 2013

Introduction

As one of the topics designated by Commission Chair Senator Sandra Pappas for consideration during the 2013-2014 Interim, the Commission has scheduled consideration of the minimum salary figure specified in the law as the threshold for part-time employees participating in the various retirement plans administered by the Public Employees Retirement Association (PERA) and related Minnesota public pension plan membership inclusion and exclusion issues.

The Commission staff believes that Commission consideration of the topic will take two or three meetings. This Commission staff issue memorandum is the first of an expected pair of memoranda and will:

1. Summarize the source of the topic;
2. Summarize the narrow issue in the topic;
3. Provide a component by component comparison of the membership inclusions and exclusions of the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA);
4. Provide a summary of the legislative development of the membership inclusions and exclusions of the three retirement systems; and
5. Provide a brief discussion of the policy issues surrounding the narrow issue.

Source of the Issue

The issue arose out of proposed legislation introduced in 2011 that was amended and enacted in 2012 solely as a mandated study in 2011. The proposed legislation was 2011 SF 2031 (Rosen); HF 2360 (O'Driscoll), which replaced the \$425 monthly salary in any one month salary threshold for membership in a defined benefit retirement plan administered by the Public Employees Retirement Association (PERA) other than the Statewide Lump-Sum Volunteer Firefighter Retirement Plan of the Public Employees Retirement Association with a \$773 monthly salary for Fiscal Year 2013 and increasing the threshold amount based on the percentage increase in the federal Consumer Price Index-All Urban Wage Consumers annually after Fiscal Year 2013. The replacement report mandate required the PERA to identify options for revising the membership eligibility salary threshold and to report its results to the Legislative Commission on Pensions and Retirement in February 2013. PERA delivered the membership eligibility study to the Commission in February 2013.

Background Information on Relevant Topics

The following background materials relating to the topic are attached:

- **Attachment A:** Background information on the PERA membership inclusions and exclusions.
- **Attachment B:** Background information on the MSRS membership inclusions and exclusions.
- **Attachment C:** Background information on the TRA membership inclusions and exclusions.
- **Attachment D:** Component-by-component comparison of the membership inclusions and exclusions of MSRS, PERA, and TRA.

Narrow PERA-General Membership Inclusion Issue

- a. Issue. The narrow issue is whether or not the minimum salary threshold figure for membership in the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Retirement Plan (PERA-P&F), and the Local Government Correctional Service Retirement Plan (PERA-Correctional) should be increased from its current (last reset in 1988) level and, if so, are any of the options examined by the PERA in its

February 2013 report (attached) on the topic represent a policy improvement that should be implemented by the 2014 Legislature.

- b. Policy Considerations on Membership Exclusions and Inclusions. In considering the narrow issue of the PERA minimum salary threshold figure, the Commission staff can identify five issues that the members of the Commission may want to consider when considering the PERA salary threshold report, which are:
1. Comparability Between Retirement Plans. As the attachments undoubtedly indicate, the three major Minnesota public employee defined benefit retirement plans differ in the extent to which potential plan members are actually included in the plan or are actually excluded from retirement plan coverage. The Teachers Retirement Association (TRA) appears to have the greatest percentage of its potential coverage group actually as retirement plan members. The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) appears to also have a very large percentage of its potential coverage group actually as retirement plan members. The General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) clearly trails the other two plans in the extent of its potential coverage group that are covered, largely because PERA applies to the largest group of part-time and seasonal employees, has the lowest average salary among its membership group (\$37,332 annually in Fiscal Year 2012 compared to \$51,107 annually in Fiscal Year 2012 for MSRS-General and \$53,507 annually in Fiscal Year 2012 for TRA), and has a minimum salary threshold figure for membership. For retirement plans that are invested in an identical manner, that are administered in a largely similar manner, that have, with the exception of membership inclusions, covered salary definitions, and allowable service credit provisions, essentially identical benefit plan designs and major components, and that are covered by portability mechanisms that depend on that commonality, uniformity of practices should be the default policy position. Increasing the PERA minimum salary threshold figure continues and increases a non-uniform aspect of the retirement plan.
 2. Fairness to Public Employees Where Part Time Employment is Common. While part-time employment is reportedly relatively rare in state employment (in the neighborhood of 15%), part-time employment appears to be more common in local governments served by PERA and TRA, which have smaller employing units and more employment positions with narrow time commitments. In MSRS and TRA, these part-time employees typically are public pension plan members from the initial dollar of public compensation, but in PERA, they are not if they are modestly compensated, without coverage for the initial month of employment if hiring occurs late in the month for many employees, and without coverage for longer periods for low income personnel until their compensation levels increase. While the exclusion of low income personnel from public pension plan coverage could save these employing units some employer contributions, if the employee is more than a short-duration employee, it deprives the person of an employment benefit of some consequence.
 3. Benefit Windfall Potential Avoidance. Although unlikely to be the primary reason for the PERA minimum salary threshold figure membership exclusion, and if intended, constitutes only a partial remedy, the exclusion of some part-time employees from PERA retirement coverage does avoid some potential benefit windfalls that may not be appropriate. For employees with Minnesota public pension coverage for part-time service who eventually become full-time employees in time to establish a more substantial highest five successive years' average salary base for retirement annuity calculations, the part-time employment years of allowable service credit will be obtained for modest member contributions compared to the immediate pre-retirement employment period, which could be considered a windfall. While this potential windfall could be avoided for a person who never exceeds \$425 per month compensation from local government for any portion of that part-time employment, the potential windfall would be available for a person who exceeds \$425 per month by \$1 for one month early in the person's part-time career. The windfall potential is a logical consequence of legislative plan design decisions made in the past. Since establishment in 1929 and 1931 respectively, both MSRS and PERA have granted one month of service credit for any month in which a person renders allowable service, is compensated, and has member contributions deducted from that compensation. TRA historically credited service credit by the day, granting a full day of service credit with at least five hours of compensated service rendered, measured against a 170-day statewide school year. Before 1973, MSRS, PERA, and TRA defined benefit plans utilized a career average salary, and diminished salary credit for periods of part-time service adequately accounted for less than full-time employment. In 1973, the various defined benefit retirement plans shifted from a career average salary figure for benefit calculation to a highest five years' average salary figure for benefit calculation and either neglected or declined to

revise the allowable service crediting practices to adequately account for part-time employment, which permits potential windfalls.

4. Implications/Problems from Delayed Retirement Plan Membership Inclusions. PERA, with a minimum monthly salary figure threshold for membership inclusion, also is the Minnesota public pension plan with the greatest number of past prior service credit purchase requests and laws for periods of omitted pension plan contributions, and the two phenomenon are undoubtedly connected. PERA law, Minnesota Statutes, Section 353.27, Subdivision 12, provides for an administrative procedure to obtain omitted salary deductions and member contributions for any period, up to three years, during which a local government employee should have been a member of the retirement plan, but was omitted from membership. This administrative procedure should handle most instances where local government human resources or payroll personnel fail to identify employees who exceeded the minimum salary threshold figure, so any quantity of special law service credit purchases for omitted contribution periods is indicative of an administrative problem by local government in determining PERA retirement plan eligibility. An increase in the threshold salary figure or the imposition of a process for making periodic regular increases in the threshold salary figure may increase the number of public employees with omitted contribution periods and, if in excess of three years of service, demands for special prior service purchase legislation. Under the Commission's developing policies on prior service credit purchases, when the employing unit is responsible for the lost service credit, the employing unit will be liable for the balance of the full actuarial value service credit purchase payment obligation for the benefit obtained by the purchase that is in excess of the amount of member contributions that should have been paid, plus 8.5% compound interest.

5. Actuarial Impact from Turnover Experience Gains from Broad Retirement Plan Inclusions. Public employers with significant numbers of part-time employees are likely to argue for increased exclusions from retirement plan coverage in order to save employer contributions for employees who may not be career employees with that employer. Turnover experience gains, which are releases of pension plan actuarial accrued liability upon premature terminations of covered employment, are a significant factor depressing the actuarial normal cost or actuarial accrued liability of Minnesota public pension plans. Reflecting recent past experience, Minnesota public pension plans have an actuarial assumption about pre-retirement age withdrawals from covered service, which reduces the future normal cost of the retirement plan. Turnover greater than expected in the withdrawal actuarial assumption, when it occurs, reduces the retirement plan actuarial accrued liability. Although not required as part of the actuarial reporting under Minnesota Statutes, Section 356.215, since 1991 (Laws 1991, Ch. 268, Art. 3, Sec. 13), eight of the statewide and major local Minnesota defined benefit retirement plans did provide turnover gain or loss information as part of their July 1, 2012, actuarial valuations, as follows:

<u>Retirement Plan</u>	<u>Turnover (Gain)/Loss</u>	<u>Total (Gain)/Loss</u>
MSRS-General	\$813,000	\$349,900,000
MSRS-Correctional	(3,879,000)	28,530,000
Judges	(36,000)	5,302,000
State Patrol	51,000	25,213,000
PERA-General	(26,863,000)	305,995,000
PERA-P&F	(5,822,000)	245,107,000
PERA-Correctional	(1,061,000)	8,083,000
SPTRFA	201,000	72,466,000
Total	<u>(\$36,596,000)</u>	<u>\$1,040,596,000</u>

An increase in the PERA minimum salary threshold membership figure will reduce turnover, probably requiring a revision in the current actuarial assumption, with an increase in the retirement plan normal cost, and reducing future experience gains.

Background Information on PERA-General Membership Inclusions and Exclusions

1. Current Membership Inclusions. The General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) includes in its retirement coverage employees of governmental subdivisions and public officers performing personal services for a governmental subdivision where salary is paid in whole or in part from revenue derived from taxation, fees, assessments, or other sources, with some specific inclusions, with some optional memberships exercised either by the governmental entity or by the individual employee, and with some specific exclusions.

Specific inclusions are governmental subdivision employees with salary that exceeds \$425 in any month from either one subdivision position or a number of subdivision positions, employees with governmental functions such as town or city clerks or treasurers, county auditors, treasurers or recorders, city managers, or emergency management directors, physicians in public employment, full-time employees of the Dakota county Agricultural Society, and Minneapolis Police Relief Association or Minneapolis Firefighters Relief Association employees.

2. Current Optional Memberships. Optional PERA-General membership by action of the individual are employees of public sector labor organizations, persons in elected or appointed positions other than local governing body positions, PERA-General members appointed by the governor as a state department head who decline coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), city managers, and pre-2003 St. Paul Port Authority employees who were over age 44 in 2003. Optional PERA-General membership by action of the employing entity are employees of the Minnesota Association of Townships, county historical societies, or Hennepin Healthcare Systems, Inc. employees.
3. Current Membership Exclusions. Exclusions from PERA-General membership are persons with salary from a governmental subdivision that never exceeds \$425 in any month, public officers on the governing body of a governmental subdivision, election judges and officers, patient or inmate personnel, temporary employees, fire, flood, storm, or disaster emergency employees of a governmental subdivision, persons required by law to be a member of another Minnesota retirement plan by virtue of their governmental subdivision employment, religion order members, employees under age 23 who are full-time students, physician residents, medical interns, and pharmacy residents, part-time technical college instructors with a part-time adult supplementary technical college license, foreign citizens with short-term work permits or visas, public hospital employees electing not to participate before 1972 and in 1988, volunteer ambulance personnel, volunteer firefighters, various local government trades personnel, seasonal employees, supported employment employees, work study employees, independent contractors and their employees, reemployed annuitants, and governmental subdivision board or commission members.
4. Historical Development of PERA-General Inclusions and Exclusions.
 - In 1931 (Laws 1931, Ch. 307, Sec. 1-2), when the Public Employees Retirement Association (PERA) was established, the term “public employee” was defined as any person holding an elective or appointive position as an employee or officer of a county, as an employee or officer of any city of the first class, city of the second class, or city of the third class, whether governed by home rule charter or otherwise, as an employee or officer of any village with a population of more than 7,000, or public school employee or officer with a salary paid from taxation or from public revenues. The term excluded temporary employees and employees with an average period of employment under six months, with membership optional for public employees having that status on April 24, 1931, to be elected before July 1, 1933, and with membership mandatory for public employees accepting public employment after April 23, 1931.
 - In 1933 (Laws 1933, Ch. 374, Sec. 1-2), the definition of the term “public employee” was revised to apply to any person who holds a position by election, appointment, or contract with a county, a city, a village, or a school district if the salary is paid in whole or in part through taxation, fees, assessments, or governmental subdivision revenue. The term was defined to also mean a person appointed as a district court reporter, but was indicated that it did not include persons by employment were required to contribute to another retirement fund established under law and did not include temporary employees. The definition of “public employee” was extended to include any incorporated city and any incorporated village with a population of more than 5,000. The definition distinguished between “present public employees” (a public employee who was receiving salary from a governmental subdivision which accepted coverage by PERA on the date of that acceptance) and “new public employees” (a public employee who entered public employment by a governmental subdivision which accepted PERA coverage after the date of that acceptance). Present public employees in governmental subdivisions accepting PERA coverage

were permitted to elect PERA membership until July 1, 1935, with the membership of an elected official who elected coverage remaining binding during the person's future incumbency, and with the membership in the retirement plan not terminated by resignation or termination of governmental subdivision employment.

- In 1935 (Laws 1935, Ch. 106, Sec. 1), the retirement plan membership provision was modified to accommodate employees of governmental subdivisions at the time of its accepting plan coverage after May 1, 1935, and were given the option of becoming plan members during the two years following the acceptance.
- In 1937 (Ch. 466, Sec. 1-2), the definition of "public employee" was augmented to exclude any period of time for coverage when the person was eligible for membership or was a member of another Minnesota public retirement plan. The covered governmental subdivisions provision was expanded to include any common school district or special school district. The plan membership provision was amended to provide that any person who is appointed to fill an elective office vacancy may exercise a membership option under the same terms and condition as apply to the admission of elective officers.
- In 1941 (Laws 1941, Ch. 285, Sec. 1-2), the definition of "public employee" was modified to exclude temporary employees, and was further refined in excluding individuals for periods of employment when they were covered by a Minnesota public retirement plan and specifically included district court reporters. "Temporary employee" was defined to mean persons who are employed by a governmental subdivision for a period that did not exceed six months in any 12-month period, was a substitute for another employee on a leave of absence, was considered temporary in character, but not seasonal, or is employed part time with annual compensation under \$301 unless the person is in the classified civil service of the employing unit.
- In 1947 (Laws 1947, Ch. 18, Sec. 1-2), the definition of "present public employee" was redefined as employees of governmental subdivisions as of June 1, 1947, for subdivisions which became subject to the retirement plan effective on June 1, 1947. The definition of "new public employee" was redefined as persons who become employees of governmental subdivisions becoming subject to the retirement plan after June 1, 1947. The plan membership provision was separated into subdivisions, with new subdivisions governing the membership process for employees and elected public officials becoming such after June 1, 1947, with a two-year deadline for the exercise of the option back to June 1, 1947.
- In 1949 (Laws 1949, Ch. 84, Sec. 1), the language of the prior exclusion of persons who are members of another public retirement plan was simplified.
- In 1951 (Laws 1951, Ch. 22, Sec. 1-7, 10-13), the definition of "public employee" was substantially revised, newly set as any person performing personal services for a governmental subdivision as an officer or employee whose salary is paid wholly or partially through taxation, fees, assessments, or other public revenue, as a district court reporter, or as an officer or employee of PERA, the definition of "governmental subdivision" was expanded to include boroughs and towns. The term "non-employee member" was defined as a person who continues PERA membership after ceasing to be a public employee. The term "contributory membership" was defined as membership during which contributions are made by salary deduction. The term "new public employee" was redefined as a person who becomes a public employee after the date on which the governmental subdivision accepted PERA coverage. The specification of membership eligibility was totally revised, requiring every public employee who is not already covered by PERA on or after July 1, 1951, to become a PERA member by accepting or continuing in public employment unless an elected official or an appointee to an elected official position, is already age 60, is required to contribute to another public retirement plan by virtue of employment, or is an employee of a governmental subdivision that had not adopted PERA coverage. The public officers membership provision was totally revised, made optional, and continuing during the incumbency of the person in office. A provision specifying optional membership for employees at or over age 60 on July 1, 1951, was added, and a provision governing the commencement of membership on July 1, 1951, was added.
- In 1955 (Laws 1955, Ch. 815, Sec. 1-2, 11), the membership provisions were modified to add elected members of the Legislature as members and to make PERA membership mandatory for non-member public employees on July 1, 1955, and for newly employed public employees after June 30, 1955, by virtue of the continuation in employment or the acceptance of employment.
- In 1957 (Laws 1957, Ch. 815, Sec. 1; and Ch. 935, Sec. 1, 6), the plan membership provisions were amended to include in coverage the chief clerk of the Minnesota House of Representatives, the Secretary of the Minnesota Senate, and any employee of the League of Minnesota Municipalities.

Plan membership provisions were amended to add or clarify exceptions from coverage, set as:

- persons rendering professional duties and compensation is on a per diem basis;

- election officers;
- persons who are employed by contractors under an authorized contract;
- patient and inmate help rendered to governmental unit;
- members of boards, commissions, volunteer fire departments, bands, and others employed in intermittent governmental subdivision service and paid on a per diem or for-free basis;
- temporary, emergency, and seasonal employees as defined by PERA board rule; and
- public employees required to contribute by virtue of employment to another Minnesota public retirement plan.

Plan membership provisions were amended to also exclude:

- persons over age 60 with less than six years of allowable service credit as of June 30, 1957, and any post-June 30, 1957, hire unless the person has allowable service credit equal to the number of years in excess of age 55;
 - elected public officials and appointees to elected positions had the option to be covered by the retirement plan within six months of taking office, continuing for the duration of incumbency in the office held when membership was elected; and
 - any public employee who was not eligible for PERA coverage but who was not eligible for federal Social Security coverage, was made eligible for PERA coverage, retroactive to July 1, 1957.
- In 1959 (Laws 1959, Ch. 650, Sec. 1-3, 30, 56), employees of a public elected officer or of governmental subdivision departments were made eligible for PERA coverage. Municipal housing and redevelopment authority employees, seaway port authority employees, soil conservation district employees, and certain hospital district employees were excluded from PERA coverage. PERA membership was limited to periods while engaged in public employee services, and PERA membership was specified to include leaves of absence of less than six months, temporary layoffs of less than six months, authorized sick leaves, and authorized job training leave. Nonemployee PERA membership was abolished as of August 1, 1959, with refunds paid to any former nonemployee PERA member. Former PERA members who are elected officials or employees of a municipality that is not covered by PERA were permitted to continue in PERA membership.
 - In 1961 (Laws 1961, Ch. 482, Sec. 1; and Ch. 746, Sec. 1), police matrons who were transferred to county correctional facilities were excluded from PERA coverage and the prior seaway port authority exclusion was corrected as a port authority exclusion from PERA.
 - In 1963 (Laws 1963, Ch. 641, Sec. 3-4, 16-17), the independent contractor exclusion from PERA coverage was clarified. The prior other retirement plan or relief association contributor exclusion was modified to not apply to local police or fire relief association members with dues but no pension contributions less than \$13 in any calendar year. The prior extension of membership to leave of absence periods limited to an aggregate of 12 months during the person's entire coverage period rather than six months and the prior extension of membership to temporary layoff or authorized job training leave was limited to periods authorized by the employer transmitted promptly to PERA and not to exceed 3.5 months in any calendar year.
 - In 1965 (Laws 1965, Ch. 880, Sec. 1), employees of probate judges or municipal judges were included in PERA coverage. The prior temporary, emergency, and seasonal employee exclusion from PERA membership was replaced by an exclusion of employees in essentially temporary or seasonal positions that do not continue beyond 90 working days in any calendar year and the exemption expires if a former temporary or seasonal employee continues beyond 90 days and earns in excess of \$75 in any calendar month. Part-time employees with less than \$75 in monthly compensation were excluded from PERA membership, along with emergency employees hired by reason of fire, flood, storm, or disaster and with students occasionally employed part time by a governmental subdivision in any capacity.
 - In 1967 (Extra Sess. Laws 1967, Ch. 37, Sec. 1), the prior exclusion for part-time employees with earnings under \$75 per month was clarified by eliminating the prior exception for probationary employees with civil service merit system rights. The prior student part-time employee exclusion was expanded to include full-time school or college students.
 - In 1969 (Laws 1969, Ch. 940, Sec. 1), the inclusion in PERA membership of persons employed by probate judges was eliminated, and a grammatical error relating to the exclusion of election officers was corrected. The exclusion of public employees covered by another public retirement fund by virtue of their public employment was modified to not apply to volunteer fire relief association members if the relief association does not determine benefits or contributions based on a firefighter's compensation or salary, and the religious organization exemption was modified with respect to the required annuity or benefit waiver.
 - In 1971 (Laws 1971, Ch. 106, Sec. 1, 39; and Ch. 503, Sec. 1), the inclusion in PERA membership of the secretary of the Minnesota Senate and the chief clerk of the Minnesota House of Representatives was eliminated, and the inclusion in PERA coverage of Minnesota legislators was limited to persons first elected before December 31, 1969. The broad exclusion from PERA coverage of volunteer fire

department members was eliminated, and the exclusion from PERA membership of temporary or seasonal employees was modified as to its continuation from more than 90 working days to 120 working days. The exclusion from PERA coverage of persons with other retirement plan coverage was modified to not apply where legislation specifically authorized supplemental plan coverage, and the exclusion from PERA membership was modified with respect to medical interns and resident physicians to apply only if they are full-time graduate degree candidates.

- In 1973 (Laws 1973, Ch. 753, Sec. 3-5, 79), the PERA membership inclusion was modified to eliminate employees of elected or appointed officers or municipal judges and to eliminate state legislators.

Specific PERA membership inclusions were added, indicated as:

- elected or appointed officers and their employees,
- district court reporters,
- PERA officers and employees,
- League of Minnesota Municipalities employees,
- public hospital officers and employees, and
- school district employees who drive their own buses.

Fifteen specific PERA membership exclusions were added, indicated as:

- persons employed for their regular professional duties,
 - election officers,
 - independent contractors,
 - patient and inmate help in charitable, penal, and correctional institutions,
 - boards, commissions, and band with intermittent service,
 - temporary or seasonal employees up to 120 working days annually and earning less than \$75 per month,
 - part-time employees with monthly compensation under \$75 or annual compensation stipulated under \$900 annually,
 - post-February 1, 1969, elected officials with compensation under \$75 per month,
 - emergency fire, flood, storm, or disaster employees,
 - persons required to be a member of another primary retirement plan by virtue of their employment,
 - public matrons,
 - persons applying for exemption based on religious organization membership,
 - students who are occasional part-time employees and full-time students,
 - resident physicians, medical interns, and pharmacist interns, and
 - appointed or elected officers paid on a fee basis who were not members on June 30, 1971.
- In 1974 (Laws 1974, Ch. 229, Sec. 1), the earnings threshold for membership for temporary employees, seasonal employees, part-time employees, and elected officials was increased from \$75 per month to \$150 per month (or \$1,800 annually if stipulated for part-time employees).
 - In 1976 (Laws 1976, Ch. 329, Sec. 12), the religious organization exemption from PERA membership was amended to require the religious organization to confirm that public retirement membership is forbidden by its religious beliefs, customs, or rites. The student exemption from PERA membership was amended to make it inapplicable to full-time public employees for all applicable personnel effective July 1, 1976.
 - In 1977 (Laws 1977, Ch. 347, Sec. 52; and Ch. 429, Sec. 19-20), the name for the League of Minnesota Cities was corrected and employees of the Association of Minnesota Counties, the Metropolitan Inter-County Council, and the Minnesota Municipal Utilities Association were added to the PERA membership inclusion provision. The temporary, seasonal, and part-time employee minimum salary threshold for inclusion in PERA coverage was increased from \$150 per month to \$250 per month (or from \$1,800 to \$3,000 if stipulated in advance for part-time employees). The religious organization exclusion from PERA membership was replaced by an exclusion for chaplains and nuns taking a vow of poverty as a religious order member, and the occasionally employed part-time exclusion from PERA membership for students was eliminated.
 - In 1978 (Laws 1978, Ch. 471, Sec. 1; Ch. 720, Sec. 6; Ch. 796, Sec. 23), the PERA membership exclusion provision was modified by:
 - increasing the salary threshold figure from \$150 per month to \$250 per month for elected officials after March 1, 1978,
 - adding an exclusion for participants in the federal Comprehensive Employment and Training Act,
 - clarifying that the other pension plan coverage exclusion applied only if the other plan coverage was coincidental with the potential PERA membership, and
 - excluding from PERA membership town, city, or county assessors if their salary or compensation from any one employer did not exceed \$250 per month or if the employment contract sets the total compensation in advance and specifies in advance that the service will not exceed three months in duration.

- In 1979 (Laws 1979, Ch. 216, Sec. 1; Ch. 303, Art. 6, Sec. 5), the PERA membership inclusion provision was expanded to include post-1979 Minneapolis city officers and employees, post-1979 Metropolitan Airports Commission employees, post-1979 Minneapolis Employees Retirement Fund employees, and post-1979 Special School District No. 1 employees, and the PERA membership exclusion provision was modified by clarifying that the part-time employee exclusion does not apply to firefighters, by excluding volunteer firefighters who are stipulated in advance and who do not receive compensation greater than \$3,000 annually, by clarifying that the full-time student exclusion does not apply to full-time employees of governmental subdivisions, and by removing an obsolete effective date.
- In 1980 (Laws 1980, Ch. 609, Art. 5, Sec. 20), the PERA membership exclusion provision was expanded by adding persons with part-time adult supplementary vocational-technical school licenses rendering incidental service up to 300 hours annually, and by adding area vocational technical school instructors rendering less than six hours of teaching service per quarter.
- In 1981 (Laws 1981, Ch. 68, Sec. 15), the PERA coverage inclusion provision was expanded with the addition of Range Association of Municipalities and Schools employees and Soil and Water Conservation District employees. The PERA coverage exclusion provision was modified by an increase in the salary threshold for membership for temporary or seasonal employees, part-time employees, and elected officials from \$250 per month to \$325 per month (or from \$3,000 to \$3,900 per annum for part-time employees if stipulated in advance).
- In 1982 (Laws 1982, Ch. 404, Sec. 1-2, 10; Ch. 424, Sec. 115), the PERA membership inclusion provision was amended to eliminate the specific inclusions of Minneapolis city elected officials and employees and Minneapolis public schools employees, and to correct the name of the Metropolitan Inter-County Association. The PERA membership exclusion provision was amended to remove the exception of firefighters in the part-time employees with monthly compensation under \$325 exclusion and the specific volunteer firefighter exclusion. The specific definition of a volunteer firefighter was repealed.
- In 1985 (Laws 1985, Ch. 261, Sec. 3), the PERA coverage inclusion provision was expanded with the addition of a specific inclusion for employees of a county historical society.
- In 1986 (Laws 1986, Ch. 399, Art. 2, Sec. 9; Ch. 400, Sec. 9; Ch. 458, Sec. 11; and 1st Spec. Sess. Laws 1986, Ch. 3, Art. 2, Sec. 41), the PERA membership inclusion provision was expanded to specifically include employees of economic development authorities and was amended by modifying the 1985 inclusion of county historical society employees by specifying that those employees also must be county employees.
- In 1987 (Laws 1987, Ch. 49, Sec. 9; Ch. 284, Art. 5, Sec. 1; Ch. 296, Sec. 1; and Ch. 372, Art. 1, Sec. 5), the PERA coverage inclusion provision was expanded to specifically include full-time firefighters who are employed by the Minnesota Department of Military Affairs.

The PERA coverage exclusion provision was modified by:

- defining incidental service by persons rendering professional services as less than 25% of total gross annual earnings,
 - including alternatively a school year for a calendar year for the exclusion of temporary or seasonable school district employees or part-time school district employees, with a threshold maximum salary of prorated portion of \$3,900 written stipulated earnings,
 - eliminating the federal Comprehensive Employment and Training Act exclusion,
 - specifying the other retirement plans that trigger an exclusion rather than a more generic exclusion, and
 - replacing the chaplain and nun exclusion with an exclusion indexed to the federal Social Security law religious organization exemption law.
- In 1988 (Laws 1988, Ch. 709, Art. 2, Sec. 1; Art. 5, Sec. 1), the PERA membership inclusion provision was expanded by including county historical society employees located in a county that certifies the employees as its employees for retirement purposes.

The PERA membership exclusion provision was modified by:

- reorganizing the provision into paragraphs and clauses,
- revising the language style of the incidental service determination for professional service employees,
- replacing the former temporary or seasonal employee exclusion with an exclusion for employment not expected to continue for more than six consecutive months,
- increasing the threshold compensation figure for part-time employees and elected officials from \$325 per month to \$425 per month (from \$3,900 to \$5,100 annually if stipulated in advance),
- moving to a separate paragraph the exception in the other retirement plan membership exclusion for multiple plan coverage for different service during the same time period,
- eliminating a 1963 savings clause relating to membership option exercises, and
- eliminating the modestly compensation town, city, or county assessor exclusion.

- In 1989 (Laws 1989, Ch. 209, Art. 2, Sec. 36; Ch. 319, Art. 3, Sec. 1-2; Art. 5, Sec. 1; and Ch. 335, Art. 3, Sec. 5), the PERA coverage inclusion provision was expanded:
 - with the addition of Association of Metropolitan Municipalities employees and of Minnesota Association of Townships employees if the association certifies its exercise of the coverage option for all permanent employees,
 - the continuation in membership of pre-July 1, 1988, employees who met the compensation threshold based on total salary from all positions held in multiple governmental subdivisions and court employees who became state employees and elected a continuation of coverage, and
 - correcting statutory cross-references for economic development authority employees.

The PERA coverage exclusion provision was modified to:

- update without apparent substantive change the language style and usage of several provisions,
 - provide an exception to the under-six-months employment exclusion for probationary periods preceding a permanent position, and by repositioning procedures applicable to employees who continue beyond six months or hold concurrent part-time positions and earn more than \$425 monthly,
 - clarify the other retirement plan membership exclusion based on the plan administrative system,
 - to except from the other retirement plan exclusion concurrent membership based on different employment occurring at the same time,
 - add exclusions for pharmacist residents serving in a degree or residency program and for students serving in an internship or residency sponsored by an accredited educational institution,
 - simplify the part-time adult supplementary technical institute license exemption,
 - exclude volunteer ambulance service personnel unless they render compensated service other than as ambulance personnel,
 - exclude volunteer firefighters unless they render compensated service other than service covered by the volunteer fire relief association, and
 - exclude Minneapolis Community Development Agency employees.
- In 1990 (Laws 1990, Ch. 570, Art. 11, Sec. 1), the PERA coverage exclusion provision was modified to exempt from the board and commission member exclusion individuals where membership was a result of public employment by the same employer. The under-six-consecutive-month employment exclusion was revised to clarify that the person must be hired for a position of less than six months in duration and to except from the exclusion employees hired to an unlimited period employment position with a probationary period. The exclusion provision was modified to revise the part time under the threshold salary exclusion as applicable to any employment under \$425 per month (or \$5,100 annually stipulated in advance).
 - In 1991 (Laws 1991, Ch. 341, Sec. 1), the PERA membership exclusion for members of religious orders was modified with the inclusion of a statutory cross-reference for a Social Security coverage election option.
 - In 1992 (Laws 1992, Ch. 432, Art. 2, Sec. 2), the PERA coverage exclusion provision was amended to make various apparently non-substantive language style and usage modifications.
 - In 1993 (Laws 1993, Ch. 307, Art. 4, Sec. 1-3, 5-6, 11), the general definition of “public employee” was modified to specify that independent contractors and their employees are not eligible for PERA coverage. The PERA membership inclusion provision:
 - was reconfigured and revised to specify that exceeding the \$425 per month salary threshold in any month requires membership in the association for all subsequent months,
 - clarified the inclusion of employees in concurrent non-temporary positions with one governmental subdivision that exceeds the salary threshold,
 - clarified that the elected official inclusion applies to officials elected by the public at large or appointed to fill an elective office vacancy who elected to be a member and who met the salary threshold,
 - added governor-appointed state department heads who elected not to be covered by MSRS, and
 - eliminated a number of specific former inclusions for employing units included in the definition of the term “governmental subdivision.”

The PERA membership exclusion provision was revised by:

- adding elected public officers who did not elect PERA coverage, replacing the prior membership election procedure contained in the definition of the term “member,”
- eliminating the exclusion of professional service personnel,
- eliminating the board and commission intermittent service exclusion,
- adding an exclusion for non-temporary employees who resign that position and accept a temporary position within 30 days in the same governmental subdivision,
- eliminating the exclusion for certain police matrons,
- eliminating the exclusion of fee-basis paid officers,
- eliminating the exclusion for technical college instructors with teaching license exemptions for teaching less than 61 hours per year,
- eliminating the exclusion for Minneapolis Community Development Agency,
- adding an exclusion for foreign citizens working under a short-term work permit or visa, and

- adding exclusion for public hospital employees who failed to elect PERA coverage before 1972 and again in 1988.
- In 1994 (Laws 1994, Ch. 572, Sec. 5), the PERA coverage inclusion provision was expanded to include former area vocational technical college employees who became MnSCU employees and elected to retain PERA membership.
- In 1997 (Laws 1997, Ch. 241, Art. 2, Sec. 1), the PERA membership exclusion provision was amended to clarify that it applied to both PERA-General and PERA-P&F and to exclude St. Paul public school pipefitters and associated trades personnel hired after May 1, 1997, or who elected exclusion if employed before May 2, 1997.
- In 1998 (Laws 1998, Ch. 254, Art. 1, Sec. 87), the 1994 inclusion of former area vocational technical college employees in MnSCU employment who elected to retain PERA membership by statutory cross-reference was eliminated following the 1995 repeal of the cited statute in a Revisor’s bill.
- In 1999 (Laws 1999, Ch. 222, Art. 4, Sec. 4), the local police and fire relief association membership exclusion from PERA coverage was modified to accommodate the former police and fire consolidation account members who were covered by the consolidation account merger into PERA-P&F.
- In 2000 (Laws 2000, Ch. 461, Art. 3, Sec. 7; Art. 7, Sec. 1), the general definition of the term “public employee” was modified with the addition that reemployed annuitants are not included in coverage by virtue of the reemployment and the PERA membership exclusion provision was expanded with the exclusion of various electrical workers, plumbers, carpenters, and associated trades personnel employed by the St. Paul School District or the City of St. Paul employed after May 1, 2000, or who elect to be excluded if employed before May 2, 2000.
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 10, Art. 10, Sec. 1-2; Art. 11, Sec. 2-5), the general definition of the term “public employee” was revised to include an optional membership provision and the specific exclusions of independent contractors and reemployed annuitants were removed. The PERA membership inclusion provision was expanded by adding full-time Dakota County Agricultural Society employees and was totally revised by requiring all persons meeting the general definition of “public employee” to be a member of the applicable PERA-administered retirement plan as a condition of employment from the first day of employment unless specifically excluded, or do not exercise an individual option for coverage when applicable, or was employed by a governmental subdivision that did not exercise a group option for coverage when applicable and continuing all members having that status as of June 30, 2002, as members.

The PERA membership exclusions provision was revised by:

- excluding all elected public officials first taking office after July 1, 2002, other than county sheriffs,
- excluding election judges,
- eliminating patient or inmate personnel for all government subdivisions, not just charitable, penal, or correctional institutions,
- limiting the temporary position employees to persons other than temporary employees filling permanent positions or unspecified period positions,
- eliminating the under \$425 per month salary threshold exclusion,
- clarifying the full-time student exclusion as any education exclusion if the employment is predicated on the individual’s student status, by adding an exclusion for post-2002 employees limited in duration to 185 calendar days or less,
- adding an exclusion for supported employment or work study positions limited to less than three years’ duration,
- adding an exemption for independent contractors, and
- adding reemployed PERA annuitants.

A PERA optional membership provision was added, with an individual option for labor organization employees, elected officials, state department heads appointed by the governor, and city managers and with a group-basis election by the applicable governmental subdivision for the Minnesota Association of Townships and county historical society employees.

- In 2002 (Laws 2002, Ch. 392, Art. 3, Sec. 1-2), the PERA coverage inclusion provision was amended to add a \$425 per month minimum salary threshold for PERA membership. The PERA coverage exclusion provision was amended by adding an under \$425 per month salary threshold exclusion, by adding an age 23 limit on the full-time student exclusion, by excepting Hennepin County employees from the under-three-year student exclusion, and by excepting Hennepin County employees from the under-three-year work permit or visa foreign citizen exclusion.
- In 2003 (1st Spec. Sess. Laws 2003, Ch. 12, Art. 4, Sec. 1), the PERA optional membership provision was amended to add an individual option for the St. Paul Port Authority.
- In 2004 (Laws 2004, Ch. 267, Art. 1, Sec. 2), the PERA membership exclusion provision was modified to eliminate the \$425 per month salary threshold for temporary employees.

- In 2005 (Laws 2005, Ch. 10, Art. 5, Sec. 1; Ch. 125, Art. 3, Sec. 1-2), the general definition of the term “public employee” was augmented by providing that it includes full-time Dakota County Agricultural Society. The PERA membership exclusion provision was modified to except the Hennepin Healthcare System from the under-three-year work permit or visa foreign citizen exclusions. The optional PERA membership provision was amended with respect to the group option for the Hennepin Healthcare, Inc., for employees other than paramedics, emergency medical technicians, and protection officers if the corporation establishes an alternative retirement plan.
- In 2006 (Laws 2006, Ch. 271, Art. 3, Sec. 5-6), the PERA coverage inclusion provision was amended to also include physicians employed by governmental subdivisions who did not elect coverage under the PERA Defined Contribution Plan. The PERA optional membership provision was amended to clarify the maximum age on the Port Authority of St. Paul optional membership individual election and to clarify the conditions on the optional membership for the three group election provisions.
- In 2007 (Laws 2007, Ch. 134, Art. 1, Sec. 4; Art. 2, Sec. 13-14), the PERA membership inclusion provision was amended to clarify that the \$425 per year minimum salary threshold applies to one or multiple public employment positions and clarifies the participation duration for pre-2002 PERA members is until incumbency ends for elected officials and until termination of public employment broadly. The PERA membership exclusion provision was amended to eliminate the pre-2002 elected official membership grandparent duration language moved to the inclusion provision and the other retirement plan coverage exclusion provision was amended to eliminate an obsolete reference to the Minneapolis Teachers Retirement Fund Association.
- In 2008 (Laws 2008, Ch. 349, Art. 5, Sec. 14), the PERA coverage exclusion provision was amended by expanding the resident physician, medical intern, and pharmacist resident and intern exception to apply to clinics as well as hospitals.
- In 2009 (Laws 2009, Ch. 169, Art. 12, Sec. 4-5), the general definition of the term “public employee” and the PERA membership inclusion provision were amended by moving the Dakota County Agricultural Society full-time employee inclusion from the general definition of the term “public employee.” The PERA membership inclusion provision was amended by moving the Dakota County Agricultural Society full-time employee inclusion from the general definition to the inclusion provision and by adding Minneapolis Firefighters Retirement Association (MFRA) and Minneapolis Police Retirement Association (MPRA) employees not otherwise excluded by law.
- In 2010 (Laws 2010, Ch. 359, Art. 5, Sec. 1-4; Art. 11, Sec. 1-2), the general definition of the term “public employee” had a reference to “public officer” added and the language style and usage of the provision were modified in an apparent non-substantive nature. The PERA coverage inclusion provision was modified by:
 - clarification of the mandatory nature of membership for included employees and a specification of the date on which membership commences,
 - setting forth three additional specific inclusions, persons meeting the salary threshold from one or more positions in a governmental subdivision, persons performing the functions of town or city clerk or treasurer, county auditor, treasure or recorder, city manager, or emergency management director, and elected county sheriffs,
 - specifically providing that membership continues for all months of public service once the threshold is first met,
 - including pre-2003 elected officials in the 2002 PERA member grandparenting provision,
 - including MERF members in membership of the MERF Division of PERA, and
 - making various language style and usage changes.

The PERA coverage exclusion provision was modified by:

 - clarifying that employees who never exceed the minimum salary threshold are never eligible for membership,
 - clarifying the application of the public office holder exclusion applying to city mayors and not applying to county sheriffs,
 - simplifying the language usage and style of the short-term work permit or visa foreign citizen exclusion,
 - specifically excluding board or commission appointees,
 - not excluding from membership as independent contractors persons performing clerk, treasurer, recorder, city manager, or emergency management director functions under a contract, and
 - making various language style and usage updates.
- In 2011 (1st Spec. Sess. Laws 2011, Ch. 8, Art. 1, Sec. 1-2), employees of the Red Wing Port Authority who were first employed by the port authority before May 1, 2011, were included in coverage.

Background Information on MSRS-General Membership Inclusions and Exclusions

1. Current Membership Inclusions. The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) includes in its retirement coverage employees and officers in the classified and unclassified service of the State of Minnesota, including most metropolitan agencies. There are 19 specific inclusions primarily relating to quasi-State agencies, the University of Minnesota, the Minnesota State Colleges and Universities System (MnSCU), and personnel involved in past retirement consolidations or in employment privatizations or restructurings. Optional membership is limited to gubernatorial or lieutenant gubernatorial appointments. There are 35 specific exclusions, primarily related to persons with other Minnesota public pension plan membership and persons performing irregular, very incidental, or very temporary employment services. (*352.01, Subd. 2, 2a, 2b; 352.021, Subd. 2*)
2. Current Optional Memberships. Optional membership applies to a person who is appointed to their employment position by the Governor or by the Lieutenant Governor if the person is not covered by MSRS-General at the time of the appointment and requests an exemption from MSRS-General coverage in writing within 90 days after the date of entering the appointed position and continuing for the period of that employment. (*352.021, Subd. 2*)
3. Current Membership Exclusions. Exclusions from MSRS-General membership are employees of the University of Minnesota excluded from coverage by the Board of Regents, or the MnSCU Board of Trustees, persons covered by the Teachers Retirement Association (TRA), the State Patrol Retirement Plan, the Duluth Teachers Retirement Fund Association (DTRFA), or the St. Paul Teachers Retirement Fund Association (SPTRFA), National Guard personnel on permanent peacetime duty covered by a federal retirement system, election officers, independent contractors and employees of independent contractors, temporary legislative employees, jurors and court employees who are not in the judicial branch, patient and inmate help in state institutions, persons employed in professional services, intermittent state board or commission members, temporary State Fair employees, emergency employees, various trainee and temporary employees, examination monitors, temporary Adjutant General employees, Sibley House employees, religious order personnel who are exempt from Social Security coverage, trades personnel employed by the Environmental Services Division of the Metropolitan Council, Metropolitan Transit police officers, Department of Military Affairs firefighters, and aliens with short duration work permits.
4. Historical Development of MSRS-General Membership Inclusions and Exclusions.
 - In 1929 (Laws 1929, Ch. 191, Sec. 1), "State Employee" was defined as any person holding a state office or regularly employed by the state annually or monthly in whatever capacity if paid on a State Auditor warrant or from departmental income or fees, except court commissioners, supreme court commissioners, district judges, or higher education institution presidents or deans, professors, or instructors. Excluded from coverage were temporary employees or employees employed for a definite period of less than six months. Membership was optional for state employees with that status on July 1, 1929.
 - In 1933 (Laws 1933, Ch. 326, Sec. 1-2), the mandatory coverage provisions were augmented with the addition of a requirement that any state employee who was employed by the state for more than six months continuously was required to become a member even if classified as a temporary employee or otherwise and the addition of a requirement that the department head to cause deductions from a post-July 1, 1929, new state employee's salary.
 - In 1935 (Laws 1935, Ch. 238, Sec. 1-2), requirements identical to the 1933 enactment were again enacted.
 - In 1939 (Laws 1939, Ch. 432, Sec. 1), the definition of "State Employee" was modified by the addition of exclusions from plan membership for elective state officers, tax appeals board members, civil service board members, members of any board or commission with intermittent service and per diem compensation, teachers in state institutions with eligibility for Teachers Retirement Association (TRA) coverage, and students employed by the state incidental to and in furtherance of their education. Also, Department of Education employees who are eligible for TRA membership were given the option of State Employees Retirement Association (SERA) membership, with those Department of Education employees with past SERA coverage who elect TRA coverage granted a deferred annuity or refund right.
 - In 1941 (Laws 1941, Ch. 389, Sec. 1-2), the exclusions from SERA membership was expanded to include temporary state employees as defined by the State Civil Service Act and the exclusion of

probationary state employees and temporary unclassified service state employees was clarified as applicable only to the initial six continuous full months of employment and permanent seasonal employees in the classified or unclassified service were specified as not being temporary employees. State employees on July 1, 1929, who elected to be excluded from SERA before July 2, 1931, were required to become SERA members on July 1, 1941.

- In 1943 (Laws 1943, Ch. 622, Sec. 1), the inclusions in SERA membership were clarified with the specification that permanent unclassified state service employees were members upon acceptance of employment, that classified state service employees were members upon the completion of six months of continuous state employment no matter the employee's classification, and that any former state employee who was a SERA member and who did not take a refund were members upon reemployment immediately, regardless of classification and the SERA exclusions were expanded to apply to physicians, dentists, clergy, and other professionals retained by the state for their professional duties when compensated on a per diem basis.
- In 1945 (Laws 1945, Ch. 38, Sec. 1; Ch. 284, Sec. 1-2), the SERA membership inclusions were expanded to Minnesota Historical Society employees, Disabled American Veterans-Minnesota Department employees if paid on a State Auditor warrant, effective retroactively to the date SERA members contributions began, and SERA members employed as session employees by the Minnesota Legislature and the "State Employee" definition was completely restructured, with the plan membership inclusions specified as employees in the classified or unclassified service of the state, Minnesota Historical Society employees, State Horticultural Society employees, Disabled American Veterans-Department of Minnesota employees, and current SERA members employed as legislative session employees or other temporary legislative committee or commission employees and with plan membership exclusions specified as elective state officers, students employed by the state incidental to a furthering their education, employees eligible for TRA membership other than Department of education employees exercising their option to be or remain SERA members, University of Minnesota employees excluded by Board of Regents action, National Guard employees unless assigned to permanent peacetime duty, election officers, employees of contractors in state public work, temporary legislative employees, court employees other than Supreme Court employees and other than Industrial Commission referees and adjustors, patient and inmate state institution help, professional service providers for services incidental to their regular professional duties and compensated on a per diem basis, Sibley House Association employees, General Army of the Republic and Ladies of the G. A. R. employees, contract operators and drivers retained by the state, members of various state boards or commissions, state highway patrolmen, and persons aged 65 upon becoming otherwise entitled to members.
- In 1949 (Laws 1949, Ch. 644, Sec. 1), the SERA plan membership exclusions were amended to provide an exception to the legislative employment exclusion for permanent employees of the Legislative Research Committee who exercise their membership option within six months of employment.
- In 1951 (Laws 1951, Ch. 441, Sec. 2), the SERA plan membership inclusions were expanded to Adjutant General employees paid from federal funds, but not eligible for federal retirement coverage and employees of state teachers colleges in the college activities program, the student worker membership exclusion was revised to apply unless the Board of Regents at the University of Minnesota or the teacher college board approve the person for plan membership, and an exclusion was added for emergency employees in the classified state service.
- In 1953 (Laws 1953, Ch. 320, Sec. 1, 3), special authority for plan membership was extended to a former state employee who was elected as a constitutional officer.
- In 1955 (Laws 1955, Ch. 239, Sec. 1), the SERA plan exclusion for various boards and commissions members was modified to not apply to the secretary, treasurer, or secretary-treasurer of a state board where the compensation exceeded \$500 per year.
- In 1957 (Laws 1957, Ch. 928, Sec. 1, 7), the "State Employee" definition was again restructured, with a separate inclusion set of clauses and with a separate exclusion set of clauses. SERA plan inclusions were expanded to armory building commission employees, Minnesota-Wisconsin-Minneapolis-St. Paul Survival Plan Project employees, and permanent legislative employees. SERA plan exclusions were increased to labor service employees who were covered by Social Security and who were paid on an hourly basis, state game wardens, state employees aged over 60 with less than six years of plan membership, and state government department heads appointed by the Governor if requested by the department head.
- In 1959 (Ex. Sess. Laws 1959, Ch. 6, Sec. 1, 6), two additional SERA plan inclusions, trainees in a full-time established training program if eligible for an immediate appointment upon completion of training and employees of the Minneapolis deputy motor vehicle registrar, were added and four additional SERA plan exclusions, temporary employees in the classified service, seasonal help in

the unclassified service employed by the Motor Vehicle Division or the Income Tax Division of the Tax Department, trainees other than the program newly included in 1959, and persons employed on a fee compensation basis.

- In 1961 (Ex. Sess. Laws 1961, Ch. 67, Sec. 1), the legislative branch SERA plan inclusions and exclusions were revised, clarifying the two applicable provisions, by including permanent legislative research committee employees with the permanent legislative employee inclusion provision and by restating the legislative employee exclusion provision as applicable to legislative officers and temporary legislative employees and legislative research committee employees employed intermittently on an on-call basis. The State Fair temporary employee exclusion was no longer restricted to the period of the State Fair, but applied from August 1 to September 30 annually. Additional exclusions were specified for state employees receiving a year of service credit from a first class city teacher retirement fund association, for temporary employees of the Adjutant General related to the Camp Ripley field training activities, and for chaplains and nuns who took a vow of poverty.
- In 1963 (Laws 1963, Ch. 383, Sec. 1), the "State Employee" definition was amended by more appropriately repositioning the labor service employee exclusion, by restricting the Disabled American Veterans and Veterans of Foreign Wars employee inclusion to employees employed before July 1, 1963, by eliminating the Minnesota-Wisconsin-Minneapolis-St. Paul Survival Plan Project employee inclusion, by limiting the emergency employee exclusion to emergency employees shifted to provisional or probationary employee status without an interruption of duties, and by recasting the state game warden exclusion as a state police officer exclusion.
- In 1965 (Laws 1965, Ch. 230, Sec. 1; and Ch. 590, Sec. 1), the SERA plan inclusions and exclusions were divided into three subdivisions, the inclusion subdivision was amended by replacing the Minneapolis Deputy Motor Vehicle Registrar employees with Minnesota Safety Council employees, and the exclusion subdivision was amended by clarifying the board and commissioner secretary exclusion applies if the secretary is prohibited by law to serve multiple terms totaling ten years of service, by adding the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its secretary, by extending the temporary State Fair employee exclusion to a July 1 to October 15 period, by amending the Adjutant General employee exclusion to employees employed on an unlimited basis for any training facility and not just Fort Ripley, by excluding student employees at a state junior college, and by adding exclusions for department, commission, or agency examination monitors, for most appeals tribunal members, and for fact-finding commission members, arbitrators, or labor referees.
- In 1967 (Ex. Sess. Laws 1967, Ch. , Sec. 1-2), the National Guard exclusion was clarified to apply only if covered by a federal retirement system, the emergency employee exclusion was modified to not apply to an employee with multiple emergency appointments with no service separation greater than 10 days in each instance with retroactive coverage, the labor service employees exclusion was modified to apply to employees who are entitled to a pay differential when not entitled to sick leave, holiday pay, or insurance coverage, and two exclusions were added for temporary employees in economic distress rehabilitation programs and for full-time students employed by the Minnesota Historical Society employed intermittently during a portion of the year and full-time during summer months.
- In 1971 (Laws 1971, Ch. 12, Sec. 1), the MSRS General State Employees Retirement Plan exclusion for emergency employee exclusion was modified to apply only to employees who do not become provisional or probationary employees within the same pay period and an exclusion was added for temporary employees of the Metropolitan Council or its boards who are employed for no more than six months.
- In 1976 (Laws 1976, Ch. 329, Sec. 2), the MSRS-General exclusion provision was amended to clarify the legislative branch temporary employee exclusion by replacing the legislative research committee temporary exclusion with a general committee or commission temporary employee exclusion, the temporary employee exclusion was extended to all temporary unclassified service employees appointed for a definite period of no more than six months and employed less than six months in any one year, the seasonal help exclusion was narrowed to apply only to the revenue department, the labor service employee exclusion was restricted to a laborer 1 classification on an hourly basis, an exclusion for student workers employed by the Department of Personnel was added, and an age 65 at appointment exclusion, unless previously vested, was added.
- In 1977 (Laws 1977, Ch. 98, Sec. 1), the MSRS-General exclusion provision was amended to add a post-June 1, 1977, Metropolitan Waste Control Commission tradesman exclusion.
- In 1978 (Laws 1978, Ch. 538, Sec. 1; Ch. 672, Sec. 11-12; and Ch. 720, Sec. 3), the MSRS-General inclusions and exclusions provisions were modified, with the inclusions expanded to employees of the Metropolitan Transit Commission, the Metropolitan Council, the Metropolitan Parks and Open

Space Commission, the Metropolitan Waste Control Commission, the Metropolitan Sports Facility Commission, the Metropolitan Mosquito Control Commission, and judges of the Minnesota Tax Court, and the exclusions were modified by eliminating the Tax Court judge exclusion and by adding enrollees in state employment under the federal Comprehensive Employment and Training Act unless previously vested in the plan or employed under an agreement by which the employer covers the pension plan employer contribution from non-federal funds.

- In 1980 (Laws 1980, Ch. 614, Sec. 135), the exclusion of the members of the personnel board from MSRS-General membership was eliminated.
- In 1983 (Laws 1983, Ch. 247, Sec. 137), an exception from an MSRS-General membership exclusion of court employees for Supreme Court employees was broadened to cover all appellate court employees.
- In 1984 (Laws 1984, Ch. 654, Art. 3, Sec. 100), employees of the Regional Transit Board were added to the MSRS-General membership inclusions.
- In 1985 (Laws 1985, Ch. 248, Sec. 54, and 1st Spec. Sess. 1985, Ch. 13, Sec. 317), the MSRS-General membership inclusion provision was modified to remove an obsolete reference to the legislative research committee and the MSRS-General membership exclusion provision for Department of Revenue personnel employment was clarified to reflect a shift of those employees from the unclassified civil service to the classified civil service.
- In 1987 (Laws 1987, Ch. 83, Sec. 1; Ch. 229, Art. 6; and Ch. 372, Art. 1, Sec. 2), the MSRS-General membership exclusion provision was expanded to exclude off-duty police officers employed by the Metropolitan Transit Commission and full-time firefighters employed by the Department of Military Affairs who are covered by the Public Employees Police and Fire Retirement Plan (PERA-P&F) and the MSRS-General membership provisions were redrafted to update their language style and usage.
- In 1989 (Laws 1989, Ch. 209, Art. 2, Sec. 35, and Ch. 335, Art. 3, Sec. 4), the MSRS-General membership exclusions were modified, with the court employee exclusion narrowed to employees who were not in the judicial branch and the exclusion of certain operators and drivers was eliminated.
- In 1990 (Laws 1990, Ch. 426, Art. 1, Sec. 41, and Ch. 570, Art. 1, Sec. 2), the MSRS-General membership exclusion provision was modified by eliminating the exclusion for employees of the General Army of the Republic and by revising the specification of the exclusion of State Patrol Retirement Plan members who are not state troopers.
- In 1992 (Laws 1992, Ch. 432, Art. 1, Sec. 1), the MSRS-General membership exclusion provision was modified to eliminate the exclusion of employees of the Ladies of the General Army of the Republic, the elimination of the exclusion of budget classification number 41 trainees, and the revision of the chaplain and nun exclusion to base the exclusion on religious exclusions under the federal Social Security law.
- In 1993 (Laws 1993, Ch. 307, Art. 1, Sec. 3-4), the MSRS-General membership inclusion and exclusion provisions were amended by including privatized former University of Minnesota heating plant employees in MSRS-General coverage for the duration of their employment with the successor private sector employer and by increasing the threshold salary for an exclusion exception for secretaries, treasurers, or secretary-treasurers of state boards or commissions to \$5,000 and changing the minimum-period time limit on service to three years, by eliminating the age 65 at employment exclusion, by broadening the Metropolitan Transit Commission off-duty police officer exclusion for the hiring authority, by adding an exclusion for full-time Metropolitan Transit Commission police officers with Public Employees Police and Fire Retirement Plan (PERA-P&F) membership, and by adding an exclusion for under-three-year alien employee work permits.
- In 1994 (Laws 1994, Ch. 572, Sec. 4, and Ch. 628, Art. 3, Sec. 26-27), the MSRS-General membership inclusions and exclusions were modified by modifying the metropolitan government employee inclusion and exclusion to accommodate a Metropolitan Council reorganization and by adding an exclusion for Higher Education Board employees who elected to retain prior PERA-General or MERF retirement coverage.
- In 1995 (Laws 1995, Ch. 54, Sec. 26; Ch. 186, Sec. 70; and Ch. 195, Art. 2, Sec. 1), the MSRS-General membership inclusions and exclusions were modified, with the elimination of an obsolete statutory cross-reference related to the Metropolitan government employees inclusion, the inclusions were expanded to include Metropolitan Radio Board employees, and the exclusion for appeals tribunal members was eliminated.
- In 1997 (Laws 1997, Ch. 241, Art. 8, Sec. 3-4), the MSRS-General membership inclusions and exclusions were modified by including, rather than excluding, seasonal Department of Revenue

help in the classified civil service and including Minnesota State Colleges and Universities System (MnSCU) personnel also rendering part-time state employment if the state employment comprises at least 50% of the person's combined salary.

- In 2000 (Laws 2000, Ch. 457, Sec. 6), the MSRS-General membership inclusion for legislative employees was modified by eliminating the permanent employment requirement and replacing it with an unlimited time duration appointment requirement.
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 10, Art. 3, Sec. 4-5, and Art. 8, Sec. 1), the MSRS-General membership inclusion and exclusions were modified by updating the references to the Minnesota State Colleges and Universities System (MnSCU) and eliminating the 1997 MnSCU-related inclusion, by newly excluding MnSCU unclassified employees, by updating the language style and usage of the exclusion provision, and by updating the State Patrol Retirement Plan exclusion to account for the addition of Department of Corrections Fugitive Apprehension officers.
- In 2005 (1st Spec. Sess. Laws 2005, Ch. 8, Art. 4, Sec. 2), the MSRS-General membership inclusions were expanded to include Department of Commerce Insurance Fraud Prevention Division in excess of the applicable state mandatory retirement age for State Patrol Retirement Plan members.
- In 2007 (Laws 2007, Ch. 134, Art. 2, Sec. 2-3, and Art. 11, Sec. 6), the MSRS-General membership inclusions were modified by eliminating Armory Building commission employees, by clearly adding University of Minnesota employees who have not been exempted by action of the Board of Regents, by adding Middle Management Association employees hired after July 1, 2007, and the MSRS-General membership exclusions for student employees exception for Board of Regents approval for the University of Minnesota was clarified.
- In 2008 (Laws 2008, Ch. 277, Art. 1, Sec. 73, and Ch. 349, Art. 5, Sec. 1), the MSRS-General membership inclusions were expanded with the addition of the Minnesota Government Engineers Council employees and the MSRS-General membership exclusion for MnSCU employees with PERA-General or MERF coverage was revised to reflect the end of the coverage election option.
- In 2009 (Laws 2009, Ch. 169, Art. 2, Sec. 3), the MSRS-General membership exclusion for State Patrol Retirement Plan members was revised relating to a State Patrol Plan definition recodification.
- In 2012 (Laws 2012, Ch. 299, Art. 1, Sec. 8), the MSRS-General membership inclusion was expanded to the Minnesota Sports Facility Authority employees.

Background Information on TRA Membership Inclusions and Exclusions

1. Current Membership Inclusions. The Teachers Retirement Association (TRA) includes in its retirement coverage a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school outside of Duluth or St. Paul, or in a charter school, or in any charitable, penal or correctional institution of a governmental subdivision, or a person who is engaged in educational administration of the state school system, or an employee of the Teachers Retirement Association (TRA), or a person who teaches part-time while also rendering other employment services for the same employing entity if teaching represents at least 50% of the combined employment salary, or an unclassified employee of the Minnesota State Colleges and Universities System (MnSCU) who is not covered by another Minnesota public pension plan covering MnSCU employees as a president, vice president, dean, academic manager or professional, an administrative or faculty support position, teacher, or research assistant.

2. Current Membership Exclusions. The Teachers Retirement Association (TRA) excludes from its retirement coverage teaching personnel employed by Independent School District No. 709 (Duluth) or Independent School District No. 625 (St. Paul), teaching personnel at the University of Minnesota, teaching and academic personnel employed by the Minnesota State Colleges and Universities System (MnSCU) covered by another public pension plan in which MnSCU participates, independent contractors as defined by the Internal Revenue Service who work in a school or institution, persons exempt from teacher licensure, and persons who render part-time teaching or customized trainer service in a MnSCU institution that is incidental to the person's non-teaching career, stipulated in writing in advance as not exceeding 300 hours per fiscal year, and actually not exceeding 300 hours per fiscal year.

3. Historical Development of MSRS-General Membership Inclusions and Exclusions.
 - a. Predecessor to TRA: Teachers Insurance and Retirement Fund.
 - In 1915 (Laws 1915, Ch. 199, Sec. 1), "teacher" for plan membership was defined as any teacher, supervisor, principal, superintendent, or certified librarian who is employed in any educational or administrative capacity in the public schools of Minnesota or any educational, correctional, or charitable institution supported entirely or in part by the state other than the University of Minnesota.
 - In 1925 (Laws 1925, Ch. 404, Sec. 1), the definition of "teacher" was modified to eliminate the requirement that a school librarian be certified to be a member of the retirement plan.
 - In 1931 (Laws 1931, Ch. 146, Sec. 1), in an enactment that did not amend Laws 1915, Chapter 199, county superintendents of schools were permitted to be members of the retirement plan.

 - b. Teachers Retirement Association.
 - In 1931 (Laws 1931, Ch. 406, Sec. 1), as part of the enactment creating the Teachers Retirement Association (TRA), "teacher" was defined as any person who rendered service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state other than those in the corporate limits of a city of the first class, or in the state teachers' colleges, or in any charitable institution supported in part or in whole by public funds, or who is engaged in educational administration of the state public school system, including the state teachers' colleges, but not the University of Minnesota, whether a public office or public employment, but excluding governing board members of the public school system or school district officers.
 - In 1957 (Ex. Sess. Laws 1957, Ch. 16, Sec. 1), the TRA membership inclusion provision was amended to exclude persons who work for a school or educational institution as an independent contractor.
 - In 1959 (Ex. Sess. Laws 1959, Ch. 50, Sec. 1), the TRA membership provision was modified by including educational employment positions in state penal or corrective institutions and by excluding governing board members of public schools or school districts in associated school districts or in unorganized territories.
 - In 1963 (Laws 1963, Ch. 845, Sec. 1), the TRA membership inclusions were expanded to nurses, counselors, social workers, or psychologists rendering services to applicable public schools or to state colleges.
 - In 1971 (Laws 1971, Ch. 40, Sec. 1), the TRA membership provision was amended to expand inclusions to part-time teachers who also render other services for a school district if determined by the retirement plan administration that the total employment was eligible for coverage.

- In 1974 (Laws 1974, Ch. 289, Sec. 2), the TRA membership inclusion provision was expanded to include employees of the retirement association employed after July 1, 1969.
- In 1977 (Laws 1977, Ch. 67, Sec. 1), the TRA membership provision was amended to revise the "state university" reference to the "state university system" and to add the "state community college system."
- In 1978 (Laws 1978, Ch. 556, Sec. 1, and Ch. 720, Sec. 8), the TRA membership provision was amended to exclude, in any fiscal year, a part-time school or institution teacher who certifies to having established an individual retirement account and is contributing to it and to exclude persons participating in job training or public service employment under the federal Comprehensive Employment and Training Act unless previously vested in the plan or to be covered with employer contributions paid from a source other than federal funds.
- In 1980 (Laws 1980, Ch. 342, Sec. 8, and Ch. 609, Art. 5, Sec. 21), the TRA membership exclusions were modified by clarifying that the part-time teacher individual retirement account exclusion applied if the person was not under a contribution requirement to the fund and has an individual retirement account for non-teaching employment and by eliminating the individual retirement account exclusion in favor of an exclusion for persons with part-time adult supplemental vocational-technical school license who teachers part-time in a vocational-technical school if incidental to regular non-teaching employment, stipulated in advance not to exceed 300 hours in a fiscal year and actually complying with that teaching hours limit.
- In 1981 (Laws 1981, Ch. 224, Sec. 98), the TRA membership inclusion for TRA plan employees was clarified as being applicable only if the person was not covered by the MSRS General State Employees Retirement Plan (MSRS-General) and the TRA membership exclusion for part-time teachers with individual retirement accounts was clarified as continuing despite the Laws 1980, Chapter 609, revision if excluded before January 1, 1981.
- In 1983 (Laws 1983, Ch. 148, Sec. 1), the TRA membership inclusion was expanded to include school therapists.
- In 1986 (Laws 1986, Ch. 458, Sec. 14), the TRA membership exclusions were extended to the Minnesota State Colleges and Universities System (MnSCU) chancellor, university presidents, and unclassified managerial employees covered by the MSRS Unclassified State Employees Retirement Program (MSRS-Unclassified) hired after March 25, 1986.
- In 1987 (Laws 1987, Ch. 384, Art. 1, Sec. 34), a drafting error in the 1986 enactment was corrected.
- In 1994 (Laws 1994, Ch. 528, Sec. 1), the TRA membership provision was reorganized and revised for language style and usage without apparent significant substantial change.
- In 2000 (Laws 2000, Ch. 461, Art. 3, Sec. 27), the TRA membership provision was amended to update MnSCU references, the administrative determination duty of coverage eligibility for part-time teachers with other employment by the same employer was repositioned and restated, the exclusion of certain MnSCU employees with MSRS-Unclassified coverage was eliminated, and the part-time adult supplementary technical college license exemption was made applicable to customized trainers in MnSCU.
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 10, Art. 3, Sec. 17), the TRA membership inclusion provision was expanded to include unclassified service personnel employed by MnSCU as a president, vice president, dean, academic or academic support program manager or professional, an administrative or service support faculty member, or teacher or research assistant if the person is not covered by MSRS-Unclassified, a first class city teacher retirement fund association, or the Individual Retirement Account Plan (IRAP).
- In 2002 (Laws 2002, Ch. 392, Art. 6, Sec. 1), the TRA membership inclusion provision was expanded to include all charter schools in the state.
- In 2004 (Laws 2004, Ch. 267, Art. 1, Sec. 5), the TRA membership exclusion provision was amended to eliminate the Comprehensive Employment and Training Act job training employees and to eliminate the part-time adult supplementary technical college license requirement for part-time teachers who teach incidental to the person's regular non-teaching occupation.
- In 2006 (Laws 2006, Ch. 277, Art. 3, Sec. 2), the TRA membership provision was modified to specifically exclude from membership Duluth public school district teachers and St. Paul public school teachers, accompanying the consolidation of the Minneapolis Teachers Retirement Fund Association (MTRFA) into TRA.

Comparison of the Membership Inclusions and Exclusions: MSRS-General, PERA-General, and TRA

The following compares the membership inclusions and exclusions of the three major statewide defined benefit public employee retirement plans, the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), and the Teachers Retirement Association (TRA):

MSRS-General <i>Minn. Stat. § 352.01</i>	PERA-General <i>Minn. Stat. § 353.01</i>	TRA <i>Minn. Stat. § 354.05</i>
<p>Subd. 2. State employee. "State employee" means any employee or officer in the classified and unclassified service of the state. The term also includes the special classes of persons listed in subdivision 2a but excludes the special classes of persons listed in subdivision 2b.</p> <p>Subd. 2a. Included employees. (a) "State employee" includes:</p> <ul style="list-style-type: none"> (1) employees of the Minnesota Historical Society; (2) employees of the State Horticultural Society; (3) employees of the Minnesota Crop Improvement Association; (4) employees of the adjutant general whose salaries are paid from federal funds and who are not covered by any federal civilian employees retirement system; (5) employees of the Minnesota State Colleges and Universities who are employed under the university or college activities program; (6) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8); (7) employees of the legislature who are appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation; (8) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period; (9) employees of the Minnesota Safety Council; 	<p>Subd. 2. Public employee. "Public employee" means a governmental employee or a public officer performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. For purposes of membership in the association, the term includes the classes of persons listed in subdivision 2a and excludes the classes of persons listed in subdivision 2b. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b).</p> <p>Subd. 2a. Included employees; mandatory membership. (a) Public employees whose salary exceeds \$425 in any month and who are not specifically excluded under subdivision 2b or who have not been provided an option to participate under subdivision 2d, whether individually or by action of the governmental subdivision, must participate as members of the association with retirement coverage by the general employees retirement plan under this chapter, the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies. Membership commences as a condition of their employment on the first day of their employment or on the first day that the eligibility criteria are met, whichever is later. Public employees include but are not limited to:</p> <ul style="list-style-type: none"> (1) persons whose salary meets the threshold in this paragraph from employment in one or more positions within one governmental subdivision; (2) elected county sheriffs; (3) persons who are appointed, employed, or contracted to perform governmental functions that by law or local ordinance are required of a public officer, including, but not limited to: <ul style="list-style-type: none"> (i) town and city clerk or treasurer; (ii) county auditor, treasurer, or recorder; (iii) city manager as defined in section 353.028 who does not exercise the option provided under subdivision 2d; or (iv) emergency management director, as provided under section 12.25; (4) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2; (5) full-time employees of the Dakota County Agricultural Society; (6) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elected general employee retirement plan coverage before August 20, 2009; (7) employees of the Red Wing Port Authority who were first employed by the Red Wing Port 	<p>Subd. 2. Teacher. (a) "Teacher" means:</p> <ul style="list-style-type: none"> (1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of the city of Duluth or the city of St. Paul, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, and not including the members or officers of any general governing or managing board or body; (2) an employee of the Teachers Retirement Association; (3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or (4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the Board of Trustees of the Minnesota State Colleges and Universities system in an unclassified position as:

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(10) any employees who are on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission and who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;

(11) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, or Metropolitan Mosquito Control Commission unless excluded under subdivision 2b or are covered by another public pension fund or plan under section 473.415, subdivision 3;

(12) judges of the Tax Court;

(13) personnel who were employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;

(14) personnel who are employed as seasonal employees in the classified or unclassified service;

(15) persons who are employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4;

(16) employees of the University of Minnesota unless excluded under subdivision 2b, clause (3);

(17) employees of the Middle Management Association whose employment began after July 1, 2007, and to whom section 352.029 does not apply;

(18) employees of the Minnesota Government Engineers Council to whom section 352.029 does not apply; and

(19) employees of the Minnesota Sports Facilities Authority.

(b) Employees specified in paragraph (a), clause (13), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

Subd. 2b. **Excluded employees.** "State employee" does not include:

(5) election officers;

(9) patient and inmate help who perform services in state charitable, penal, and correctional institutions including the Minnesota Veterans Home;

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Authority before May 1, 2011, and who are not excluded employees under subdivision 2b; and

(8) employees of the Seaway Port Authority of Duluth who are not excluded employees under subdivision 2b.

(b) A public employee or elected official who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) If the salary of an included public employee is less than \$425 in any subsequent month, the member retains membership eligibility.

(d) For the purpose of participation in the MERF division of the general employees retirement plan, public employees include employees who were members of the former Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as members of the MERF division of the association.

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

(1) persons whose salary from one governmental subdivision never exceeds \$425 in a month;

(2) public officers who are elected to a governing body, city mayors, 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;

(3) election officers or election judges;

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

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(i) a president, vice-president, or dean;

(ii) a manager or a professional in an academic or an academic support program other than specified in item (i);

(iii) an administrative or a service support faculty position; or

(iv) a teacher or a research assistant.

(b) "Teacher" does not mean:

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(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(14) temporary employees of the Minnesota State Fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time by the state fair administration for special events held on the fairgrounds;

(16) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

(21) employees of the adjutant general who are employed on an unlimited intermittent or temporary basis in the classified or unclassified service for the support of Army and Air National Guard training facilities;

(25) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

(27) temporary employees who are appointed for not more than six months, of the Metropolitan Council and of any of its statutory boards, if the board members are appointed by the Metropolitan Council;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee must be considered a "state employee" retroactively to the beginning of the pay period;

(2) employees who are eligible for membership in the state Teachers Retirement Association, except employees of the Department of Education who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota State Retirement System instead of the Teachers Retirement Association;

(4) officers and enlisted personnel in the National Guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(13) state troopers and persons who are described in section 352B.011, subdivision 10, clauses (2) to (8);

(19) state employees who are employed by the Board of Trustees of the Minnesota State Colleges and Universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

(20) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the Teachers Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for incidental employment as a state employee that is not covered by one of the teacher retirement associations or systems;

(31) persons who are employed as full-time police officers by the Metropolitan Council and as police officers are members of the public employees police and fire fund;

(32) persons who are employed as full-time firefighters by the Department of Military Affairs and as firefighters are members of the public employees police and fire fund;

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(5) 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;

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

(7) 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 St. Paul Teachers Retirement Fund Association, 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;

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(34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elected to remain members of the Public Employees Retirement Association or of the MERF division of the Public Employees Retirement Association as the successor of the Minneapolis Employees Retirement Fund, whichever applies, under Minnesota Statutes 1994, section 136C.75; and

(35) employees who have elected to transfer service to the unclassified program under section 352D.02, subdivision 1d.

(22) chaplains and nuns who 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, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

(17) interns who are hired for six months or less and trainee employees, except those listed in subdivision 2a, clause (8);

(1) students who are employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the Board of Regents of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, whichever is applicable;

(26) full-time students who are employed by the Minnesota Historical Society intermittently during part of the year and full-time during the summer months;

(28) persons who are employed in positions designated by the Department of Management and Budget as student workers;

(33) foreign citizens who are employed under a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date that the extension is granted, in which case they are eligible for coverage from the date extended;

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(8) 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) 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;

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

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

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

(13) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens who are employed by a governmental subdivision under a work permit, or an H-1b visa initially issued or extended for a combined period less than three years of employment. Upon extension of the employment beyond the three-year period, the foreign citizens must be reported for membership beginning the first of the month thereafter provided the monthly earnings threshold as provided under subdivision 2a is met;

(14) 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) 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 general employees retirement plan or the public employees police and fire plan, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(16) except as provided in section 353.87, volun-

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(29) members of trades who are employed by the successor to the Metropolitan Waste Control Commission, who have trade union pension plan coverage under a collective bargaining agreement, and who are first employed after June 1, 1977;

teer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties, but 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 general employees retirement plan or the public employees police and fire plan, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(17) 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;

(18) electrical workers, plumbers, carpenters, and associated trades personnel who are 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 pension plan applicable to Carpenters Local 87 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;

(19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers who are 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;

(20) plumbers who are 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;

(21) 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;

(22) 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;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensa-

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

(1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;

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tion is paid on a per diem basis;

(18) persons whose compensation is paid on a fee basis or as an independent contractor;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its full-time secretary;

(23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(3) employees of the University of Minnesota who are excluded from coverage by action of the Board of Regents;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the Department of Labor and Industry;

(11) employees of the Sibley House Association;

(30) off-duty peace officers while employed by the Metropolitan Council;

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(24) reemployed annuitants of the association during the course of that reemployment; and

(25) persons appointed to serve on a board or commission of a governmental subdivision or an instrumentality thereof.

(b) Any person performing the duties of a public officer in a position defined in subdivision 2a, paragraph (a), clause (3), is not an independent contractor and is not an employee of an independent contractor.

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(2) a person who renders part-time teaching service or who is a customized trainer as defined by the Minnesota State Colleges and Universities system if (i) the service is incidental to the regular nonteaching occupation of the person; and (ii) the employer stipulates annually in advance that the part-time teaching service or customized training service will not exceed 300 hours in a fiscal year and retains the stipulation in its records; and (iii) the part-time teaching service or customized training service actually does not exceed 300 hours in a fiscal year; or

(3) a person exempt from licensure under section 122A.30.

Subd. 2a. **Exceptions.** (a) Notwithstanding subdivision 2, a person specified in paragraph (b) is not a member of the association except for purposes of Social Security coverage unless the person is covered by section 354B.21, and elects coverage by the Teachers Retirement Association.

(b) A teacher is excluded from association membership other than Social Security coverage under paragraph (a) if the person is covered by the individual retirement account plan established under chapter 354B.