



**H.F. 1803**

(Thissen)

**S.F. 1684**

(Hayden)

## **Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	PERA
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Section 353.01, Subdivision 2b
<i>General Nature of Proposal:</i>	Exclude certain Minneapolis Park & Recreation board members.
<i>Date of Summary:</i>	March 17, 2015

### **Specific Proposed Changes**

- Adds exclusions for electricians and pipefitters employed by the Minneapolis Park and Recreation Board who have union pension coverage under IBEW Local 292 or Pipefitters Local 539 pension plans, respectively.
- The exclusion is elective for the applicable trades personnel who were employed before May 2, 2015, and is mandatory for the applicable trades personnel who are employed after May 1, 2015.

### **Policy Issues Raised by the Proposed Legislation**

1. Adequacy of the rationale for the elective exclusion.
2. Adequacy of private union pension coverage.
3. Precedent.

### **Potential Amendments**

No suggested amendments by Commission staff.

*This page left blank intentionally.*



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Rachel Thurlow, Deputy Director   
RE: H.F. 1803 (Thissen); S.F. 1684 (Hayden): PERA; Excluding Certain Minneapolis Park and Recreation Board Members  
DATE: March 17, 2015

Summary of H.F. 1803 (Thissen); S.F. 1684 (Hayden)

H.F. 1803 (Thissen); S.F. 1684 (Hayden) amends Minnesota Statutes, Section 353.01, Subdivision 2b, specifying various exclusions from membership in the retirement plans of the Public Employees Retirement Association (PERA), by adding exclusions for electricians and pipefitters employed by the Minneapolis Park and Recreation Board who have union pension coverage under IBEW Local 292 or Pipefitters Local 539 pension plans, respectively. The exclusion is elective for the applicable trades personnel who were employed before May 2, 2015, and is mandatory for the applicable trades personnel who are employed after May 1, 2015.

Public Pension Problem of Minneapolis Park and Recreation Board Electricians and Pipefitters

The proposed legislation addresses the concerns of changing electricians and pipefitter employed by the Minneapolis Park and Recreation Board from temporary to permanent employees, which would automatically qualify them for retirement coverage by the Public Employees Retirement Association (PERA). The specified trades personnel currently have retirement coverage through their respective private sector union plans and wish to continue contributing to those plans. Further, several of the trades personnel plan to retire within the next three years and would be unable therefore to even meet the vesting requirements of PERA. Commission staff has been informed that the Minneapolis Park and Recreation Board supports the legislation.

Background Information on PERA Exclusions

- **Attachment A:** Background information on PERA-General membership inclusions and exclusions.

Discussion and Analysis

H.F. 1803 (Thissen); S.F. 1684 (Hayden) adds an exclusion to Public Employees retirement Association (PERA) exclusions, applicable to electricians and pipefitters employed by the Minneapolis Park and Recreation Board who have trade union pension coverage.

The proposed legislation raises several pension and related public policy issues for consideration by and possible discussion between members of the Commission, including the following:

1. Adequacy of the Rationale for the Elective Exclusion. The policy issue is the adequacy of the rationale for the proposed legislation in allowing electricians and pipefitters employed by the Minneapolis Park and Recreation Board to be excluded from Public Employee Retirement Association (PERA) retirement coverage. Currently, the trades personnel are covered by private union pension plans. Trade union pension plans are multiemployer pension plans and are funded by a designated contribution amount per hour employed. Most union pension plans have break-in-service rules, meaning prior service credit in the plan can be forfeited if there is an extended time period without plan contributions and coverage. Consequently, public sector trades personnel with prior private sector trade employment or who wish to move one day into future private sector trade employment, frequently retain union pension plan coverage in addition to public plan coverage to avoid losing any service credit. Therefore, trades personnel who are mandated to be public employee pension plan member and retain their private union pension coverage have double pension coverage and thus double contributions. The tradesperson bears a significant financial burden because the cost of the public pension plan employer contribution is deducted when setting the tradesperson's hourly rate. The double pension coverage, at the full member and employer contribution costs of the tradesperson, may be undesired coverage from the perspective of the tradesperson and may be excessive coverage from a pension policy perspective.

2. Adequacy of Private Union Pension Coverage. The policy issue is the adequacy of the union pension plan coverage that will be the specified trades personnel total pension coverage if the proposed legislation is enacted. In creating public employee pension plan coverage, the Commission attempts to provide pension benefit coverage that is sufficient to help in recruiting qualified new employees, retaining employees, and providing for appropriate retirement incentives. The Commission staff does not have any specific current information about the applicable union pension plans and cannot determine if such coverage is sufficient to replace Public Employees Retirement Association (PERA) coverage. If future pension plan coverage turns out to be objectively inadequate, future legislative requests to reverse these exclusions could be expected.
3. Precedent. The policy issue is the extent to which identical or similar previously enacted special legislation exists to provide guidance for the Commission and the potential for this proposed legislation to serve as future precedent. Three recent special laws could be viewed as relevant in determining the current situation.
  - In 1997 (Laws 1997, Ch. 241, Art. 2, Sec. 1, 8, 12), current pipefitters with private union pension coverage employed by the St. Paul School District could elect to be excluded from PERA coverage and all future new pipefitters were excluded.
  - In 2001 (First Spec. Sess. Laws 2001, Ch. 10, Art. 10, Sec. 2), six groups of current trade personnel with private union pension coverage employed by the City of St. Paul and the Metropolitan Airports Commission could elect to be excluded from PERA coverage and all future new trades personnel were excluded.
  - In 2014 (Laws 2014, Ch. 296, Art. 1, Sec. 4, 8), current bus drivers employed by the St. Cloud Metropolitan Transit Commission with private union pension coverage were retroactively excluded from PERA coverage.

The current situation is almost identical to those of 2000 and 2001 and appears to involve the same type of exclusion as all three past special laws. The future precedent the current proposed legislation may set is no different than the three past special laws. It is likely that trades personnel PERA coverage exclusion issues will continue to be presented to the Commission in the future but no new precedent is being set with the proposed legislation.

## **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 (1<sup>st</sup> 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 (1<sup>st</sup> 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 (1<sup>st</sup> 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.

This Document can be made available  
in alternative formats upon request

State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-NINTH SESSION**

**H. F. No. 1803**

03/12/2015 Authored by Thissen and Nelson

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act  
1.2 relating to retirement; Public Employees Retirement Association; excluding  
1.3 certain Minneapolis Parks and Recreation Board employees; amending  
1.4 Minnesota Statutes 2014, section 353.01, subdivision 2b.

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

1.6 Section 1. Minnesota Statutes 2014, section 353.01, subdivision 2b, is amended to read:

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

1.11 (1) persons whose annual salary from one governmental subdivision never exceeds  
1.12 an amount, stipulated in writing in advance, of \$5,100 if the person is not a school district  
1.13 employee or \$3,800 if the person is a school year employee. If annual compensation from  
1.14 one governmental subdivision to an employee exceeds the stipulated amount in a calendar  
1.15 year or a school year, whichever applies, after being stipulated in advance not to exceed  
1.16 the applicable amount, the stipulation is no longer valid and contributions must be made  
1.17 on behalf of the employee under section 353.27, subdivision 12, from the first month in  
1.18 which the employee received salary exceeding \$425 in a month;

1.19 (2) public officers who are elected to a governing body, city mayors, or persons who  
1.20 are appointed to fill a vacancy in an elective office of a governing body, whose term of office  
1.21 commences on or after July 1, 2002, for the service to be rendered in that elective position;

1.22 (3) election judges and persons employed solely to administer elections;

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

2.1 (5) except as otherwise specified in subdivision 12a, employees who are employed  
2.2 solely in a temporary position as defined under subdivision 12a, and employees who  
2.3 resign from a nontemporary position and accept a temporary position within 30 days of  
2.4 that resignation in the same governmental subdivision;

2.5 (6) employees who are employed by reason of work emergency caused by fire,  
2.6 flood, storm, or similar disaster, but if the person becomes a probationary or provisional  
2.7 employee within the same pay period, other than on a temporary basis, the person is a  
2.8 "public employee" retroactively to the beginning of the pay period;

2.9 (7) employees who by virtue of their employment in one governmental subdivision  
2.10 are required by law to be a member of and to contribute to any of the plans or funds  
2.11 administered by the Minnesota State Retirement System, the Teachers Retirement  
2.12 Association, or the St. Paul Teachers Retirement Fund Association, but this exclusion  
2.13 must not be construed to prevent a person from being a member of and contributing to  
2.14 the Public Employees Retirement Association and also belonging to and contributing to  
2.15 another public pension plan or fund for other service occurring during the same period  
2.16 of time, and a person who meets the definition of "public employee" in subdivision 2 by  
2.17 virtue of other service occurring during the same period of time becomes a member of the  
2.18 association unless contributions are made to another public retirement plan on the salary  
2.19 based on the other service or to the Teachers Retirement Association by a teacher as  
2.20 defined in section 354.05, subdivision 2;

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

2.26 (9) persons who are:

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

2.31 (ii) employed as resident physicians, medical interns, pharmacist residents, or  
2.32 pharmacist interns and are serving in a degree or residency program in a public hospital  
2.33 or in a public clinic; or

2.34 (iii) students who are serving for a period not to exceed five years in an internship  
2.35 or a residency program that is sponsored by a governmental subdivision, including an  
2.36 accredited educational institution;

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

3.3 (11) except for employees of Hennepin County or employees of Hennepin  
3.4 Healthcare System, Inc., foreign citizens who are employed by a governmental subdivision  
3.5 under a work permit or under an H-1b visa initially issued or extended for a combined  
3.6 period of less than three years of employment but upon extension of the employment of  
3.7 the visa beyond the three-year period, the foreign citizen must be reported for membership  
3.8 beginning on the first of the month following the extension if the monthly earnings  
3.9 threshold as provided under subdivision 2a is met;

3.10 (12) public hospital employees who elected not to participate as members of the  
3.11 association before 1972 and who did not elect to participate from July 1, 1988, to October  
3.12 1, 1988;

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

3.20 (14) except as provided in section 353.87, volunteer firefighters, as defined in  
3.21 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
3.22 but a person who is a volunteer firefighter may still qualify as a public employee under  
3.23 subdivision 2 and may be a member of the Public Employees Retirement Association and  
3.24 a participant in the general employees retirement plan or the public employees police  
3.25 and fire plan, whichever applies, on the basis of compensation received from public  
3.26 employment activities other than those as a volunteer firefighter;

3.27 (15) pipefitters and associated trades personnel employed by Independent School  
3.28 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
3.29 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,  
3.30 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
3.31 241, article 2, section 12;

3.32 (16) electrical workers, plumbers, carpenters, and associated trades personnel who  
3.33 are employed by Independent School District No. 625, St. Paul, or the city of St. Paul,  
3.34 who have retirement coverage under a collective bargaining agreement by the Electrical  
3.35 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,  
3.36 or the pension plan applicable to Carpenters Local 322 who were either first employed

4.1 after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under  
 4.2 Laws 2000, chapter 461, article 7, section 5;

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

4.12 (18) plumbers who are employed by the Metropolitan Airports Commission, with  
 4.13 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
 4.14 who either were first employed after May 1, 2001, or if first employed before May 2,  
 4.15 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
 4.16 10, section 6;

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

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

4.27 (21) independent contractors and the employees of independent contractors;

4.28 (22) reemployed annuitants of the association during the course of that reemployment;

4.29 (23) persons appointed to serve on a board or commission of a governmental  
 4.30 subdivision or an instrumentality thereof; ~~and~~

4.31 (24) persons employed as full-time fixed-route bus drivers by the St. Cloud  
 4.32 Metropolitan Transit Commission who are members of the International Brotherhood  
 4.33 of Teamsters Local 638 and who are, by virtue of that employment, members of the  
 4.34 International Brotherhood of Teamsters Central States pension plan; and

4.35 (25) electricians or pipefitters employed by the Minneapolis Parks and Recreation  
 4.36 Board, with coverage under a collective bargaining agreement by the IBEW local 292, or

5.1 pipefitters local 539 pension plan, who: (i) were first employed after May 1, 2015; or (ii)  
5.2 if first employed before May 2, 2015, elected to be excluded under section 2.

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

5.6 Sec. 2. **PUBLIC PENSION COVERAGE EXCLUSION FOR CERTAIN**  
5.7 **TRADES PERSONNEL.**

5.8 An electrician or pipefitter who is employed by the Minneapolis Parks and  
5.9 Recreation Board on the effective date of this section and who has pension coverage  
5.10 under a collective bargaining agreement by the IBEW local 292, or pipefitters local 539,  
5.11 may elect to be excluded from pension coverage by the Public Employees Retirement  
5.12 Association. The exclusion election must be made in writing on a form prescribed by the  
5.13 executive director of the Public Employees Retirement Association and must be filed  
5.14 with the executive director. The exclusion election is irrevocable. Authority to make the  
5.15 coverage exclusion expires on January 1, 2016.