



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Lawrence A. Martin, Executive Director  
RE: PERA Minimum Salary Membership Threshold and Related Membership Inclusion and Exclusion Issues, Second Consideration  
DATE: October 17, 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. The initial Commission staff issue memorandum summarized the source of the topic summarized the narrow issue in the topic, provided 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), provided a summary of the legislative development of the membership inclusions and exclusions of the three retirement systems, and provided a brief discussion of the policy issues surrounding the narrow issue.

This Commission staff issue memorandum will continue an exploration of the policy issues arising from the narrow topic of the minimum salary threshold for inclusion in retirement coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) and from the broader subject of other Minnesota public employee retirement plan membership inclusions and exclusions.

### Policy Analysis of 2011 Session SF 2031 (Rosen); H.F.2360 (O'Driscoll)

- a. Summary. SF 2031 (Rosen); H.F. 2360 (O'Driscoll) amends Minnesota Statutes, Section 353.01, Subdivisions 2a and 2b, the portion of the PERA law defining "public employee" for determining defined benefit retirement plan membership inclusions and exclusions, by replacing the current \$425 monthly salary minimum threshold amount with a revised monthly salary amount, set at \$773 per month for Fiscal Year 2013 (reflecting the federal Consumer Price Index-All Urban Consumers (CPI-U) increase from December 1988, the year of the last increase in the threshold amount, to December 2011) and reset annually for each subsequent fiscal year by adding an amount rounded up or down to the nearest full dollar, determined by applying the percentage increase in the federal CPI-U from December 2011 to the most recent December, calculated and promulgated by the PERA executive director. The statutory change is effective July 1, 2012.
- b. Policy Analysis. S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll) raises the following pension and related public policy issues:
  1. Appropriateness of the Current and Proposed Enhancement of the Differential Treatment of Membership Requirements between PERA and Other Retirement Plans. The policy issue is the appropriateness of the difference in the treatment of mandated memberships between the retirement plans administered by PERA and the other Minnesota public retirement plans under current law and under the expansion in the draft proposed legislation. The proposed legislation would almost double the minimum salary threshold for mandatory PERA membership. PERA is the only retirement system in Minnesota with a minimum salary threshold for membership. For all other Minnesota defined benefit retirement plans that are open to new members, the retirement coverage (and contribution obligation) begins with the initial dollar of public sector compensation paid. Under the Pension Commission's Principles of Pension Policy, Principle II.C.6., uniformity in retirement benefit coverage is a goal of the Commission and the current differential treatment between PERA and the other statewide and major local retirement plans and the potential enhanced differential treatment is at odds with that goal. The uniformity in pension treatment between retirement plans goal is the oldest expressed goal of the Commission, being the first Principle in the first statement of Pension Principles by the Commission as an interim Commission in January 1961.

2. Appropriateness of the Deviation from the General Commission and Legislative Policy of Mandatory Retirement Plan Membership. The policy issue is the appropriateness from the expressed general policy of the Legislative Commission on Pensions and Retirement favoring mandatory public retirement plan membership and favoring mandatory retirement coverage. The Commission’s Pension Policy Principle II.B.2. provides that:

...[t]o the extent possible, membership in a public pension plan should be mandatory for the personnel employed on a recurring or regular basis.

PERA membership periodically, but largely unpredictably, whenever the Consumer Price Index cumulative increase since July 2013 would produce a \$100 increase when applied to the \$737 reset eligibility figure, which would be a 13.6% increase. The Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI-W), as a measure of inflation, resulting from a wide array of economic forces, is not predictable with any precision. The following sets forth the July CPI-W figures for the period 1988, when the threshold salary figures was last increased, to 2013:

Year	July Result	% Increase Over Prior	Year	July Result	% Increase Over Prior	Year	July Result	% Increase Over Prior
1988	117.200	--	1997	157.500	2.07%	2006	199.200	4.29%
1989	123.200	5.12%	1998	159.800	1.46%	2007	203.700	2.26%
1990	128.700	4.46%	1999	163.300	2.19%	2008	216.304	6.19%
1991	134.300	4.35%	2000	169.400	3.74%	2009	210.526	(2.63%)
1992	138.400	2.98%	2001	173.800	2.60%	2010	213.898	1.60%
1993	142.100	2.67%	2002	176.100	1.32%	2011	222.686	4.11%
1994	145.800	2.60%	2003	179.600	1.99%	2012	225.568	1.29%
1995	149.900	2.81%	2004	184.900	2.95%	2013	230.084	2.00%
1996	154.300	2.94%	2005	191.000	3.30%			

The 0.24 increase over the 25 years ranged from a low of 1.29% to 6.19%, with the average change of 2.75% and the median change of 2.67%.

If the proposed change (\$100 increase in threshold whenever the cumulative cost-of-living percentage change since the last threshold increase mathematically would produce that increase) had been enacted in 1988, the \$425 threshold would have become \$525 in 1994, would have become \$625 in 2001, would have become \$725 in 2007, and likely would become \$825 in 2014 if the 2013-2014 cost of living is 1% or more. The variability of cost-of-living numbers means that the date of increase occurrences is uncertain, although the past 25-year pattern is every six or seven years. Minnesota Statutes, Section 353.27, Subdivision 4, requires the employing unit to submit a salary deduction report for each pay period with specific member information, to submit a new or reinstated employee report for each new or reinstated employee qualifying for PERA membership, and to submit an employment status change report for PERA members who change status because of a leave, termination, or death. Minnesota Statutes, Section 353.27, Subdivision 10, requires an annual exclusion report by employing units with respect to all employees who had been determined as ineligible for PERA membership and requires PERA to check those exclusion reports for any omitted members and authorizes PERA to conduct a field audit to review the payroll records of a governmental subdivision. Varying eligibility requirements over time will undoubtedly increase the number of errors and omissions in required reporting and will undoubtedly increase the amount of verification and audit duties to be expended by PERA, with increased administrative expenses by all entities.

3. Appropriateness of the Continuation of the Historical Dispute with Public Hospitals and Other Public Employers with Part-Time Workforces. The policy issue is the appropriateness of the Commission and the Legislature reentering the historically contentious dispute involving public hospitals and other public employers with large part-time workforces, principally with respect to PERA-General. PERA-General, before 1955, was optional for public employers, which had to opt into retirement coverage before their employees became members, and became mandatory for all local government employees after July 1, 1955 (see Laws 1955, Ch. 815, Sec. 1, 2, 11). From the mid-1950s until the mid-1970s, public hospital districts and other public employers with significant part-time workforces sought to exclude their employees, arguing that Social Security coverage was sufficient retirement coverage for those employees and that few of their employees ever continue in their employment until retirement age and actually retire from PERA-General. The Legislature attempted to accommodate these employing unit demands in 1965 (Laws 1965, Ch. 880, Sec. 1) by excluding part-time employees earning less than \$75 per month from PERA-General retirement coverage, with increases in the salary threshold figure to \$150 per month in 1974 (Laws 1974, Ch. 229, Sec. 1), to \$250 per month in 1978 (Laws 1978, Ch. 471, Sec. 1), to \$325 per month in 1981 (Laws 1981, Ch. 68, Sec. 15), and to \$425 per month in 1988 (Laws 1988, Ch. 709, Art. 5, Sec. 1). The provision has been unadjusted for the past 14 years, seemingly putting an end to the historic dispute over pension coverage for part-time employees.

4. Likely Actuarial Funding Impact on PERA-General Retirement Plan with an Increase in the Minimum Salary Threshold. The policy issue is the appropriateness of the potential impact on the actuarial funding requirements of PERA-General of a potential increase in the PERA-General salary threshold figure to \$773 per month and indexed annually thereafter. By increasing the salary threshold figure, there eventually would be fewer short service members of PERA-General, which have the highest potential for turning over without a deferred retirement annuity right, with a loss of future turnover actuarial gains that will increase the retirement plan's actuarial accrued liability and normal cost. Although unaffected by the proposed change (see Issue #5), but indicative of the extent of short service employees among the active PERA-General membership, as of July 1, 2011, there were 29,939 active members with less than three years of service credit (21 percent of the total active PERA-General membership), of which 13,572 are under age 35 (10 percent of the total active PERA-General membership). In 2010 (Laws 2010, Ch. 359, Art. 1, Sec. 23), the vesting requirement was increased from three years of service credit to five years of service credit for new PERA members hired after July 1, 2010. To gain a sense of the potential actuarial impact, although no actuarial cost estimate has been provided to the Commission staff, the withdrawal/turnover assumption over time can be compared, as follows:

Selected Assumed PERA-General Withdrawal Rates<sup>1</sup>

Age/Yr.	1985		1989		1992		1996		2000		2003		2008		2011	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
20	27.5%	38.32%	27.5%	38.32%	25.42%	29.13%	25.42%	29.13%	3.7%	4.0%	8.4%	8.4%	8.4%	8.4%	8.4%	8.4%
25	21.6%	33.56%	21.6%	33.56%	15.36%	19.42%	15.36%	19.42%	3.5%	3.9%	6.9%	6.9%	6.9%	6.9%	6.9%	6.9%
30	16.1%	28.05%	16.1%	28.05%	10.18%	13.94%	10.18%	13.94%	2.6%	3.4%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%
35	11.7%	21.6%	11.7%	21.6%	7.19%	10.53%	7.19%	10.53%	2.1%	2.9%	3.9%	4.2%	3.9%	4.2%	3.9%	4.2%
40	8.18%	13.4%	8.18%	13.4%	5.32%	8.26%	5.32%	8.26%	1.62%	2.4%	3.0%	3.5%	3.0%	3.5%	3.0%	3.5%
45	5.8%	9.0%	5.8%	9.0%	4.08%	6.67%	4.08%	6.67%	1.32%	1.9%	2.5%	3.0%	2.5%	3.0%	2.5%	3.0%
50	3.85%	6.63%	3.85%	6.63%	3.21%	5.5%	3.21%	5.5%	1.12%	1.66%	2.0%	2.5%	2.0%	2.5%	2.0%	2.5%
55	1.95%	4.78%	1.95%	4.78%	1.95%	4.78%	1.95%	4.78%	0.96%	1.46%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
60	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
65	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
70	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Normal Cost <sup>2</sup>	5.68%		5.85%		6.91%		6.85%		9.33%		8.61%		8.38%		6.50%	

Source: PERA-General actuarial valuations.

The turnover assumptions set forth above, which are adjusted periodically based on actuarial experience monitored through quadrennial experience studies, indicate the precipitous drop in the expected liability release from membership turnover that accompanied the reduction in the vesting requirement for PERA-General from ten years of service credit in 1985, to five years of service credit in 1989, to three years of service credit in 1997. Reducing the number of future covered part-time public employees would also reduce potential future turnover and will undoubtedly increase the PERA-General Retirement Plan normal cost and actuarial accrued liability. If this potential is of concern to the Commission, it would be appropriate for the Commission to request an actuarial cost estimate for the change from the consulting actuary retained by PERA.

5. Lack of Effect on Existing PERA Members. The policy issue is a question of which local governmental employees the proposed legislation will apply to and any potential governmental subdivision savings that will accrue. As drafted, the legislation only applies to part-time local governmental employees who were first employed after July 1, 2011, with a monthly salary consistently between \$425 per month and \$773 per month. If the intent for the proposed legislation was to have the provision apply to persons who are currently active PERA members with a monthly salary between \$425 and \$773, the effective date of the provision would need to be amended. Commission Pension Policy Principle II.C.22.a., however, provides that:

...[i]n recommending benefit plan modifications, the imposition of reductions in overall benefit coverage for existing pension plan members should not be recommended.

In addition to Commission policy, the Minnesota Supreme Court has decided that at least some benefit plan change legislation is impermissible because it constitutes a benefit reduction that violates a quasi-contractual relationship under *Christensen v. MERF*, 331 NW2d 740 (Minnesota 1983), which characterized the relationship between public pension plan members and the retirement plan and the Legislature as that of a quasi-contract arising from a promissory estoppel theory. Legislated reductions applicable to retirees made by the 2010 Legislature are currently being challenged by some current retirees under the promissory estoppel theory in Ramsey County District Court. If it is the intent to have the exclusion apply retroactively to cover some portion of the current PERA-covered public employees with monthly salaries between \$425 per month and \$773 per month, a decision would have to be made about whether to exclude only those employees with

<sup>1</sup> Rates expressed are the percentage of the total number of members in that age and service cohort.

<sup>2</sup> Rate is expressed as a percentage of PERA-General covered salary.

less than \$773 in month salaries who have not yet vested (i.e. under three years of allowable service credit) or all employees with less than \$773 in monthly salaries, vested or unvested, and whether to exclude the applicable set of employees either from their date of hire, with a refund of prior member contributions, or only from the effective date of the potential legislation. The greater the number of the current plan members excluded and the more retroactive the exclusion extends, the greater chance that the change will be litigated.

6. Likely Consequence of Increased Future Allowable Service Credit Purchase Demands. The policy issue is the consequences of an increased exclusion of low-paid part-time employees from PERA because it will quite likely result in increased future demands for the purchase of allowable service credit. The current level of low-salary part-time employee exclusions from PERA is involved in many of the requests for authority to purchase prior PERA allowable service credit during the last decade, even though the number of part-time employees who have been subject to the salary threshold should have been getting smaller in number over time because the salary threshold level was not indexed for inflation. Municipalities on occasion mistakenly or inattentively have been excluding employees who are eligible for PERA membership, with the person's only recourse, if the exclusion occurred more than three years prior, to seek special legislation, which consumes valuable legislative time, and then obtain allowable service credit with a very dear full actuarial value service credit purchase payment.
7. Increased Governmental Unit and PERA Burden in Checking Membership Exclusions. The policy issue is the burden that an increased salary threshold will place on local governmental employers to correctly implement PERA membership inclusions and exclusions, with the minimum salary threshold resetting upward each year, and on PERA to promulgate the minimum salary threshold calculation effectively to all 2,100 governmental units and to check periodic payroll abstracts for membership qualifications and to conduct membership audits. The proposed legislation would reset the minimum salary threshold for PERA membership every Spring, based on the Consumer Price Index increase, which is required to be calculated by and promulgated by the PERA executive director. Minnesota Statutes, Section 353.27, Subdivision 4, requires the employing unit to submit a salary deduction report for each pay period with specific member information, to submit a new or reinstated employee report for each new or reinstated employee qualifying for PERA membership, and to submit an employment status change report for PERA members who change status because of a leave, termination, or death. Minnesota Statutes, Section 353.27, Subdivision 10, requires an annual exclusion report by employing units with respect to all employees who had been determined as ineligible for PERA membership and requires PERA to check those exclusion reports for any omitted members and authorizes PERA to conduct a field audit to review the payroll records of a governmental subdivision. Varying eligibility requirements over time will undoubtedly increase the number of errors and omissions in required reporting and will undoubtedly increase the amount of verification and audit duties to be expended by PERA, with increased administrative expenses by all entities.

#### Policy Analysis of PERA Report Option #1: \$737 Monthly With Automatic Escalator

- a. Summary of PERA Report Option #1 (LCPR14-001). The PERA minimum monthly salary figure for PERA membership inclusion would be raised from \$425 per month to \$737 per month immediately and subsequently would be increased when the cumulative percentage increase in the Consumer Price Index-Urban Wage Earners Clerical Workers (CPI-W) would produce a \$100 salary increase.
- b. Policy Analysis.
  1. PERA-Identified Policy Considerations. The options does not solve problems with the current threshold, where it is difficult to handle employees with both a regular employment position and a temporary or seasonal employment position, where historic shift from monthly payroll practices makes monthly salary amount eligibility determination difficult, where the use of monthly salary determinations impose perceived bookkeeping and financial burdens to an employer, where keying on salary earnings rather than salary payments during the period is difficult, and where an eligibility determination period longer than a month would avoid difficulty of months in which these payments occurred. PERA also indicated a preference not to reduce the threshold salary for CPI-W declines and a preference not to end other PERA membership exclusions.
  2. PERA Consulting Actuary Actuarial Cost Estimate. Gabriel Roeder Smith & Company, the consulting actuarial firm retained by PERA, on January 11, 2013, calculated the actuarial impact of the potential change on the results of the June 30, 2012, actuarial valuation of the PERA-General Retirement Plan, if the membership eligibility change had been effective for the current PERA-General membership, which would have excluded 4,200 of the 15,868 PERA-General members employed after 2001.

The actuarial impact estimated for the proposed change is as follows:

	6/30/2012 Actuarial Valuation	Change Impact	Resulting Actuarial Condition
<u>Membership</u>			
Active Members	139,330	-4,200	135,130
Service Retirees	64,472	--	64,472
Disabilitants	3,638	--	3,638
Survivors	7,425	--	7,425
Deferred Retirees	44,354	--	44,354
Nonvested Former Members	<u>115,287</u>	<u>--</u>	<u>115,287</u>
Total Membership	374,506	-4,200	370,306
<u>Funded Status</u>			
Accrued Liability	\$18,598,897,000	-\$16,619,000	\$18,582,278,000
Current Assets	<u>\$13,661,682,000</u>	<u>--</u>	<u>\$13,661,682,000</u>
Unfunded Accrued Liability	\$4,937,215,000	-\$16,619,000	\$4,920,596,000
Funding Ratio	73.45%	0.07%	73.52%
<u>Financing Requirements</u>			
Covered Payroll	\$5,201,524,000	-\$16,000,000	\$5,185,884,000
Benefits Payable	\$1,000,644,000	--	\$1,000,644,000
Normal Cost	6.84% \$355,782,000	-- -\$1,017,000	6.84% \$354,765,000
Administrative Expenses	0.19% \$9,883,000	-- --	0.19% \$9,883,000
Amortization	<u>7.43%</u> <u>\$386,473,000</u>	<u>--</u> <u>--</u>	<u>7.43%</u> <u>\$386,473,000</u>
Total Requirements	14.46% \$752,138,000	-- -\$1,017,000	14.46% \$751,119,000
Employee Contributions	6.25% \$325,113,000	-- -\$979,000	6.25% \$324,134,000
Employer Contributions	7.25% \$377,139,000	-- -\$1,136,000	7.25% \$376,003,000
Employer Add'l Cont.	0.00% \$0	-- --	0.00% \$0
Direct State Funding	0.00% \$0	-- --	0.00% \$0
Other Govt. Funding	0.00% \$0	-- --	0.00% \$0
Administrative Assessment	<u>0.00%</u> <u>\$0</u>	<u>--</u> <u>--</u>	<u>0.00%</u> <u>\$0</u>
Total Contributions	13.50% \$702,252,000	-- -\$2,115,000	13.50% \$700,137,000
Total Requirements	14.46% \$752,138,000	-- -\$1,017,000	14.46% \$751,119,000
Total Contributions	<u>13.50%</u> <u>\$702,252,000</u>	<u>--</u> <u>-\$2,115,000</u>	<u>13.50%</u> <u>\$700,137,000</u>
Deficiency (Surplus)	0.96% \$49,886,000	-- \$1,098,000	0.96% \$50,982,000

3. Appropriateness of Differential Treatment Between PERA and Other Plans. (See issue #1 of analysis for 2011 Session S.F. 2031 (Rosen) H.F. 2360 (O'Driscoll))
4. Appropriateness of Deviation from Mandatory Retirement Plan Membership Policy Principle. (See issue #2 analysis for 2011 Session S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll))
5. Appropriateness of Likely Increased Eligibility Determination Errors and Service Credit Purchase Demands. (See issue #6 of analysis of 2011 Session S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll))
6. Increased Governmental Unit and PERA Burden in Checking Membership Exclusions. The policy issue is the burden that an increased salary threshold will place on local governmental employers to correctly implement PERA membership inclusions and exclusions, with the minimum salary threshold resetting upward each year, and on PERA to promulgate the minimum salary threshold calculation effectively to all 2,100 governmental units and to check periodic payroll abstracts for membership qualifications and to conduct membership audits.

Policy Analysis of PERA Report Option #2: \$100 Threshold Increase Based on Cumulative Cost-of-Living Increases

- a. Summary of PERA Report Option #2 (LCPR14-002). The PERA minimum monthly salary figures for PERA membership inclusion would be raised to \$525 per month immediately and subsequently by \$100 increments when the cumulative percentage cost-of-living increase applied to the threshold figure would produce that increase.
- b. Policy Analysis.
  1. PERA-Identified Policy Consideration. The option replicates the longstanding legislative practice with respect to resetting the PERA minimum salary membership threshold figure, with increases of \$75 or \$100 each time in the four increases 1965-1988. The proposed increase to \$525 generally parallels the practice in 1965 when a salary threshold represented 75 hours of covered employment per month at the applicable federal minimum wage, at 72.4 hours per month at the applicable federal minimum wage. The option also has the monthly payroll and multiple-position employment compensation difficulties identified with Option #1.
  2. PERA Consulting Actuary Actuarial Cost Estimate. No actuarial estimate was provided by PERA.

3. General Commission Staff Issues. (See issues #1, #2, and #6 for 2011 Session S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll) and issue #6 for PERA Option #1)
4. Particular Commission Staff Issues. The policy issues are the modest increase in the number of part-time local government employees to be newly excluded from PERA-General coverage, and the modest consequent employer contribution savings provided to governmental subdivisions pursuing the change, and the discontinuity between the actual or coincidental rationale for past increases (i.e., number of hours rendered monthly at the federal minimum wage) and the future minimum threshold salary membership inclusion figure (i.e., CPI-W increases). An increase in the threshold figure to \$525 is unlikely to exclude a significant number of additional local government employees compared to a \$737 figure, which presumably would disappoint various local government entities. The use of the cost-of-living index to generate future threshold figure increases departs from the identified relationship between the threshold figure and 75 hours of monthly employment at the federal minimum wage. If that relationship is the basis of an immediate increase in the threshold to \$525 per month, it would be more appropriate to reset the figure whenever the federal minimum wage increases, based on 75 hours of monthly employment.

Policy Analysis of PERA Report Option #3: Shift to Employment Status and Minimum Expected Annual Earnings Threshold

- a. Summary of PERA Report Option #3 (LCPR14-003) The PERA minimum monthly salary figure for PERA membership inclusion would be scrapped in favor of mandatory PERA membership for all full-time public employees irrespective of salary amount and mandatory PERA membership for public employees hired to a part-time regular position expected to have a duration longer than six months and expected to be compensated annually in an amount greater than \$6,300 for non-school district employees or \$4,600 for school-district employees.
- b. Policy Analysis.
  1. PERA- Identified Policy Considerations. The option would require monitoring of persons in full-time or part-time employment positions that are not expected to exceed six consecutive months and their wages, with PERA membership beginning only as of the first pay period once the earnings threshold is reached. For employers holding multiple employment positions with a single employer, the hours for all employment position would be combined for both the six month and annual compensation amount thresholds. An escalator based on the Consumer Price Index (CPI-W) should be used when the percentage CPI-W increase applied to the annual amount would produce a \$1,200 annual increase for non-school-district employees or a \$900 annual increase for school district employees. The current definitions of “temporary positions” and “seasoned positions” (and presumably the current temporary positions and seasonal position exclusions) should be eliminated.
  2. PERA Consulting Actuary Actuarial Cost Estimate. No actuarial estimate was provided by PERA.
  3. General Commission Staff Issues. (See issues #1, #2, and #6 for 2011 Session S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll) and issue #6 for PERA Option #1)
  4. Particular Commission Staff Issues. The policy issues are the appropriateness of the specific omission in the PERA option for any retroactive actuarial plan coverage for those public employees who exceed six months as full-time employees when excluded as not being expected to have that duration or who exceed the specified annual compensation amounts when excluded as not being expected to reach the applicable threshold and the appropriateness of the lack of clarity as to whether an initially excluded public employee who qualifies for PERA coverage during that year is again excluded at the start of the subsequent year or, as with the current monthly salary minimum threshold requirement, retains PERA eligibility for subsequent public service with that public employer. For the option to be an improvement over the current threshold for PERA membership, good faith would have to be exercised generally by all local governments. Since the portion of a year to be excluded could be very considerable, especially if public employers generally utilized as a default for new hires that full time employment is limited to six months or that regular part-time employment new hires will fall below the designated annual salary thresholds, the extent of lost service credit could be considerable. If formerly excluded public employees who gain eligibility during the course of the year do not retain eligibility for PERA membership for all subsequent years in the employ of that governmental entity, the loss of service credit for affected public employees could be very considerable, ranging from 7/12ths or 14/26ths the of a year for full-time employees and up to 11/12ths or 25/26ths the of a year for part-time employees with total compensation very close to the threshold. The shift to annual thresholds rather than smaller increments raises the consequences for the applicable public employees of an initial determination by an employer that the expectation for public employment is less than six

months or is less than \$6,300. With the potential service credit losses for affected public employers who eventually gain PERA membership eligibility and with the 2010 increases in the service credit needed to become vested or fully vested, this option could result in public employees with extensive public employment careers never qualifying for a retirement annuity.

Policy Analysis of PERA Report Option #4: Shift to Expected Employment Duration and Annual Work Hours Threshold

a. Summary of PERA Report Option #4 (LCPR14-004). The minimum monthly salary figure for PERA membership inclusion would be replaced by a threshold that uses as the membership threshold expected employment duration (in excess of six months per year) and annual hours of work (in excess of 780 hours annually for non-school-district employees and 525 hours annually for school district employees).

b. Policy Analysis.

1. PERA-Identified Policy Considerations. The option is intended to retain PERA membership eligibility for the current public school district part-time employers who now meet the \$425 per month salary threshold, who include those employers employed for three hours per day for a five-day week and attempts to conform to the Public Employers Labor Relations Act (PELRA) definition of part-time employee (14 hours per week or 35% of the normal work week). An hours test for eligibility rather than a minimum monthly salary eligibility test has previously been broadly supported by local government employers, based on 1998 and 2012 employing unit surveys, but not all local government employers record hours of work on a pay period or annual basis, especially school districts making administration difficult. Where the administrative problems result from a lack of recording normal hours of employment, a delayed effective date for the change would be needed. PERA's recordkeeping systems and processes also are currently inadequate to accommodate the options without significant adjustments.
2. PERA Consulting Actuary Actuarial Cost Estimate. Gabriel Roeder Smith & Company, the consulting actuarial firm retained by PERA, on January 11, 2013, calculated the actuarial impact retirement of the potential change on the results of the June 30, 2012, actuarial valuation of the PERA-General Retirement Plan, if the membership eligibility change had been effective for the current PERA-General memberships, which is projected to exclude 12,220 of the current PERA-General membership if it had been in effect at present. The actuarial impact estimated for the proposed change is as follows:

	6/30/2012 Actuarial Valuation		Change Impact		Resulting Actuarial Condition	
<u>Membership</u>						
Active Members		139,330		-12,220		127,110
Service Retirees		64,472		--		64,472
Disabilitants		3,638		--		3,638
Survivors		7,425		--		7,425
Deferred Retirees		44,354		--		44,354
Nonvested Former Members		<u>115,287</u>		--		<u>115,287</u>
Total Membership		374,506		-12,220		362,284
<u>Funded Status</u>						
Accrued Liability		\$18,598,897,000		-\$145,502,000		\$18,453,395,000
Current Assets		<u>\$13,661,682,000</u>		-		<u>\$13,661,682,000</u>
Unfunded Accrued Liability		\$4,937,215,000		-\$145,502,000		\$4,791,713,000
Funding Ratio	73.45%		0.58%		74.03%	
<u>Financing Requirements</u>						
Covered Payroll		\$5,201,524,000		-\$182,196,000		\$5,019,040,000
Benefits Payable		\$1,000,644,000		--		\$1,000,644,000
Normal Cost	6.84%	\$355,782,000	-0.01%	-\$13,66,000	6.83%	\$342,716,000
Administrative Expenses	0.19%	\$9,883,000	--	-	0.19%	\$9,883,000
Amortization	<u>7.43%</u>	<u>\$386,473,000</u>	<u>-0.04%</u>	<u>\$52,264,000</u>	<u>7.47%</u>	<u>\$438,937,000</u>
Total Requirements	14.46%	\$752,138,000	-0.03%	\$39,198,000	14.49%	\$791,336,000
Employee Contributions	6.25%	\$325,113,000	--	-\$11,45,000	6.25%	\$313,708,000
Employer Contributions	7.25%	\$377,139,000	--	-\$13,23,000	7.25%	\$363,909,000
Employer Add'l Cont.	0.00%	\$0	--	--	0.00%	\$0
Direct State Funding	0.00%	\$0	--	--	0.00%	\$0
Other Govt. Funding	0.00%	\$0	--	--	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	--	--	<u>0.00%</u>	<u>\$0</u>
Total Contributions	13.50%	\$702,252,000	--	-\$24,635,000	13.50%	\$677,617,000
Total Requirements	14.46%	\$752,138,000	--	\$39,198,000	14.49%	\$791,336,000
Total Contributions	<u>13.50%</u>	<u>\$702,252,000</u>	--	<u>-\$24,635,000</u>	<u>13.50%</u>	<u>\$677,617,000</u>
Deficiency (Surplus)	0.96%	\$49,886,000	--	\$63,833,000	0.99%	\$113,719,000

3. General Commission Staff Issues. (See issues #1, #2, and #6 for 2011 Session S.F. 2031 (Rosen); H.F. 2360 (O'Driscoll) and issues #6 for PERA Option #1)

4. Particular Commission Staff Issues. The policy issues are the appropriateness of the omission of any retroactive service credit acquisition back to the date of hire for public employers who became eligible for PERA-General membership during the course of the year (identical to the initial particular Commission staff issues for Option #3) and the appropriateness of the ambiguity over whether eligibility questions arise only in the initial year of public employment with a given governmental subdivision or whether eligibility (questions in every year for partial-year or part-time employees substantively identical to the second particular Commission staff issue for Option #3). Additionally, the policy issues is the length of lead time that will be necessary for PERA and for local government units, especially school districts, to adjust their recordkeeping and reporting processes to implement this option. If the period is likely to exceed a year, that implementation period may be too long for the option to be considered viable.

#### Other Minnesota Public Employee Retirement Plan Membership Inclusions and Exclusions Issues

- a. Initial Membership Inclusion and Exclusion Provisions. When the State Employees Retirement Association (SERA, renamed the Minnesota State Retirement System (MSRS) in 1969) was created in 1929, the Public Employees Retirement Association (PERA) was established in 1931, and the Teachers Retirement Association (TRA) replaced the bankrupt Teachers Insurance and Retirement Fund in 1931, the membership inclusion and exclusion provisions of the three major statewide retirement plans were far less complex, providing as follows:

##### SERA/MSRS (Laws 1929, Ch. 191, Sec. 1, Cl. 1)

Section 1. Words and phrases defined.—That the following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

1. "State Employee" shall mean any person holding a state office or regularly employed by the state by the year or by the month in any capacity whatever and whose salary is paid either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting court commissioners, commissioners of the supreme court, district judges, and the president, deans, professors and instructors in the state university and in the state teachers' colleges, but shall not include temporary employes or those employed for a definite period of less than six months.

##### PERA (Laws 1931, Ch. 307, Sec. 1, Cl. 1)

Section 1. Definitions.—That the following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

1. "Public Employee" shall mean any person holding a position, either elective or appointive, as a
  - (a) county employe or officer in any county and/or
  - (b) city employe or officer in any public department or public school in any city of the first, second or third class, whether now or hereafter operating under a home rule charter or otherwise, and/or
  - (c) village employe or officer-in any village having a population of over seven thousand (7,000) inhabitants and/or
  - (d) public school employe or officer in any school district wholly within any such city or such village whose salary is paid in whole or in part by taxation, or by fees, assessments or revenues from public service and who is not otherwise covered by any other form of public annuity or public pension system, but not to include temporary employes or persons whose average period of" employment in any one year is less than six (6) months.

##### TRA (Laws 1931, Ch. 406, Sec. 1, Cl. 1)

Section 1. Definitions.—Unless the context indicates a different meaning, the following words and terms shall, wherever used in this act, have the meaning set after the same viz.:

1. The word "teacher" shall include any person who has rendered, is rendering, or shall hereafter render service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state, located outside of the corporate limits of the cities of the first class in the state teachers' colleges, or in any charitable institution supported in whole or in part by public funds, or who has been engaged, is engaged, or shall hereafter be engaged in educational administration in connection with the state public school system, including the state teachers' colleges but excluding the state university, whether the position be a public office or an employment, not including, however, members of any general governing or managing board or body connected with such system, or the officers of common, independent, special, or county school districts.

Since 1929-1931, other than for TRA, the inclusions in and exclusions from plan membership have become more complex, growing and changing in an incremental fashion, without any general review by the Commission in decades. Hence, some general issues concerning plan membership inclusions and plan membership exclusions have been identified by the Commission staff.



b. Issues Related to Retirement Plan Membership Inclusions.

1. Retirement Plan Administration Employers. Members of the administrative staffs of the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA) are members of the respective retirement plan, but only TRA law explicitly provides for that membership inclusion. For clarity, it may be advisable to specifically indicate a coverage inclusion for MSRS and PERA administrative staff members.
2. Governmental Employment Trainees. In MSRS, for the General State Employers Retirement Plan (MSRS-General), Minnesota Statutes, Section 352.01, Subdivision 2a, Clause (8), provides that trainees employed in a full-time established training program performing state classified position duties and eligible to receive an immediate appointment at the conclusion of the training period are included in plan memberships, but Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (1), (17), (26) and (28), excludes all other interns, student workers, and student employees from MSRS-General membership and Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clauses (9), (10), and (11), exclude interns, medical residents, and full-time students from PERA-General membership at large, even if the internship programs is an established governmental training program. The Commission may wish to take testimony from MSRS, PERA, and representatives of applicable employing units about the continuing appropriateness of this differential membership treatment.
3. Employees of Quasi-State Employing Units. Minnesota Statutes, Section 352.01, Subdivision 2a, Clauses (1), (2), (3), and (9), provide for the inclusions in MSRS-General membership for employees of the Minnesota Historical Society, the State Horticultural Society, the Minnesota Crop Improvement Association, and the Minnesota Safety Council. Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (14), by implication rather than explicit provision, include in MSRS-General membership employees of the State Agricultural Society/Minnesota State Fair other than temporary/seasonal state fair employees. Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (11), specifically excludes from MSRS-General membership the employees of the Sibley House Association. By virtue of Minnesota Statutes, Section 250.05, Subdivision 3a, full-time classified employees of the Gillette Children's Hospital Board were permitted to be MSRS-General members, without any specific Minnesota Statutes, Chapter 352, reference. The 2012 MSRS Comprehensive Annual Financial Report (CAFR) indicates that Enterprise Minnesota and the Minnesota Conservation Corps are participating employing units, although they are nonprofit corporations. Under Minnesota Statutes, Section 3.971, the Office of the Legislative Auditor is authorized to audit "other state organizations," specified to include the Agricultural Partnership For Action Against Tobacco and the Metropolitan Mosquito Control District, but not indicated in the 2013 MSRS CAFR as being employing units participating in MSRS-General. If statutory inclusions serve a valuable purpose, complete and comprehensive inclusions arguably are valuable.
4. Seasonal Employees. Minnesota Statutes, Section 352.01, Subdivision 2a, Clause (14), specifies that seasonal employees in the classified state service or the unclassified state service are included in the MSRS-General membership. By contrast, PERA excludes from plan membership employees hired after June 30, 2002, to fill seasonal positions with a government entity that have a duration that does not exceed 185 consecutive calendar days in each year under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a) Clause (21). The differing treatment raises the question of the appropriateness of a blanket inclusion of a group in State government by one retirement plan where another plan excludes most or all of the same type of group in local government. The impact of the differential treatment is not insignificant. While no numbers of seasonal employees covered by MSRS-General are currently available, but PERA reports that, in 2011, 5.2 % of total Minnesota local government employment, or 12, 376 employees, were excluded from PERA-General as seasonal employees.

c. Issues Related To Retirement Plan Membership Exclusions.

1. Election Officers and Election Judges. Under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (5), election officers are excluded from membership in a Minnesota State Retirement System (MSRS) administered retirement plan, principally the General State Employees Retirement Plan (MSRS-General), and under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (3), election officers or election judges are excluded from retirement plans administered by the Public Employees Retirement Association, principally the PERA General Employee Retirement Plan (PERA-General). Other than a portion of the Minnesota Secretary of State's office, state government does not hire many employees to administer the election process, with most election personnel being retained by local government. Read literally, the MSRS election official exclusion would exclude the Secretary of State from coverage by the MSRS

Unclassified State Employees Retirement Program, at least for that portion of compensation in proportion to the election duties of the office, and some portion of the Secretary of State's office. Since it is unlikely that any of these state officers or employees are actually excluded by virtue of the provision, its continued existence should be questioned. Whether local government, county auditor or comparable county officers and municipal clerks are the supervisory election staff, would be either election officers or election judges in a literal reading of the PERA statutes, and should be excluded from PERA retirement coverage for at least some part of the person's salary, service credit, or both. Since these county and municipal employees are unlikely actually to be excluded, some clarifying reformulation appears to be in order for the PERA statute.

2. Patient or Inmate Help. The MSRS-administered retirement plans exclude from coverage patient or inmate help who perform services in state charitable, penal or correctional institutions, including the Minnesota Veterans Home, under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (9). Under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (4), PERA-administered retirement plans exclude from coverage patient and inmate personnel who perform services for a governmental subdivision. The PERA provision appears to be more expansive as to the range of services coverage by the exclusion, driven by who renders the service and for what entity the service is rendered, While the MSRS provision additionally specifies the location in which the service are rendered. Potentially, sentence-to-serve participants operated by the State of Minnesota may not be excluded, since the location for the service rendering is outside a charitable, penal or correctional institution, which local government sentence to service participants are clearly excluded. The MSRS provision including in the exclusion "the Minnesota Veterans Home", dating to 1945 (Laws 1945, Chp. 284, Sec. 1), comes from a time before there were multiple state veterans homes (Minneapolis only in 1945, Hastings in 1978, Fergus Falls, Luverne and Silver Bay after 1978) and, if to be retained, should be changed to a generic reference. The exclusion of patient or inmate help was added to MSRS law until 1945 (Laws 1945, Ch. 284, Sec. 1) and was not added to PERA law in 1957 (Laws 1957, Ch. 935, Sec. 1). The exclusion, roughly 50 years old, may reflect a different time, a different public perception, a different number and configuration of state or local institutions, and a different utilization of patients or inmates. If patients or inmates are utilized for substantial periods and are compensated, there is an employment relationship and public employment under the Commission's principles brings with it pension coverage.
3. Temporary Employees. Under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (5), employees hired for a temporary position which generally is a position with a predetermined duration of no more than six months, are excluded from membership in a PERA-administrated retirement plans. Under Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (7), (14), (16), (21), (25) and (27), temporary employees in various aspects of state employment are excluded from retirement coverage by an MSRS-administered retirement plan. The state government employment units coverage by a temporary employee exclusion were the legislative branch, the State Fair, the classified or unclassified State Civil Adjutant service, the Adjutant General's Department, temporary employees in a state or federal economic distress training or rehabilitation program other than skilled employees or supervisory employees, and the Metropolitan Council or one of its statutory board where bond members are appointed by the Metropolitan Council. For PERA, based on a 2011 PERA-General actual or potential membership survey, 5.6% of all local government employees, or 13,431 individuals, were excluded from PERA-General as temporary employees. For MSRS-administered retirement plans, no comparable information is available. The PERA temporary employee exclusion appears to exclude a large portion of public employees from public retirement coverage, arguing for a review of the practice. For MSRS, the extent of exclusions is unknown, but the six different temporary employee exclusions undoubtedly overlap each other and would benefit from some attempts to parse the generic core of the regulation out of the six different exclusions and fashion an overall exclusion.
4. Emergency Employees. Excluded from an MSRS-administered retirement plan under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (15), are emergency employees in the classified state civil service unless the emergency employee within the same pay period becomes a provisional or probationary employee other than on a temporary basis. PERA excludes from membership in one of the retirement plans it administers employees who are employed by reason of a work emergency that was caused by fire, flood, storm or similar disaster, but without any explicit provision for emergency employees who transition to provision or probationary employees under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (b), Clause (a). It may be appropriate for the Commission to pursue with PERA what problems would be caused with an exclusion framed more akin to the MSRS exclusion.
5. Members of Other Retirement Plans. Under Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (2), (4), (13), (19), (20), (31), (32), and (35), employees of the state are excluded from MSRS-administered pension plans if they have other public retirement plan coverage by the

Teachers Retirement Association, (TRA), the federal military retirement system, the State Patrol Retirement Plan, the Minnesota State Colleges and Universities System Individual Retirement Account Plan (MnSCU-IRAP) a first class city teacher retirement fund association, the Public Employees Police and Fire Retirement Plan (PERA-P&F), PERA-General, MERF Division of PERA, or the MSRS-Unclassified State Employers Retirement Program. Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (7), provides a similar exclusion contained in a single clause. It may be meritorious to consider an amalgamation or aggregation of the nine “other retirement plan” exclusions into a single exclusion.

6. Members of Religious Orders. Both MSRS and PERA exclude members of religious orders who are excluded from Social Security coverage under federal law under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (22), and Section 353.01, Subdivision 2b, Paragraph (a), Clause (8). The provisions differ in that MSRS makes it applicable to chaplains and nuns while PERA makes it applicable to religious order members and in that MSRS cites the Social Security exclusion law as amended without a specific date, but cites the exclusion election provision as amended through 1992, while PERA cites the Social Security exclusion law as amended through 1987, but cites the exclusion election provision as amended without a specific date. Citing a federal statute as amended without a date specific potentially inappropriately delegates policy making to the federal government, but if the federal law provision is sufficiently narrow and technical, the adverse effect of an implicit delegation may not be problematic. Both exclusions, at a minimum, should be updated to current federal law provisions and monitored periodically thereafter.
7. Interns and Students. Interns in general who were hired for no more than six months and trainee employees other than in a training program that makes the employee eligible for an immediate employment appointment are excluded from MSRS-administered retirement plans under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (17). MSRS also excludes students employed by the University of Minnesota or by a MnSCU institution unless the Board of Regents or the MnSCU Board approves coverage, students employed by the Minnesota Historical Society fulltime during the summer and intermittently throughout the rest of the year, and persons employed in positions designated by Minnesota Management and Budget as student workers under Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (1), (26) and (28). Resident physicians, medical interns, and pharmacist residents and interns in either a degree or residency program in a public hospital or clinic are excluded from PERA-administered retirement plans under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (10). PERA also excludes students serving in an internship or residency program sponsored by an accredited educational institution. Students who are employed through internship or residency programs logically could be assumed to be more likely to be subsequently employed in the public sector in their later careers and the exclusion works to reduce their overall benefit coverage in that case. From a drafting standpoint, amalgamating the various exclusions works into a single exclusion for each retirement plan would make the overall provisions easier to read and navigate.
8. Foreign Citizens. Both MSRS, in Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (33), and PERA, in Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (13), exclude from retirement plan memberships foreign citizens employed under a work permit or U.S. visa of less than a three year duration unless extended whereupon, retirement plan membership starts from the date of the extension. For the PERA exclusions, foreign citizens employed by either Hennepin County or Hennepin Healthcare System Inc. are not subject to any exclusion. Presumably, the exclusion is premised on post-1989/pre-2010 three-year vesting requirement applicable to most Minnesota public employee retirement plans, where employment allowed by a shorter duration work authorization would not permit vesting for a retirement annuity or benefit and exclusion saves the pension from irrelevant benefit coverage. However, since retirement plan coverage is not available retroactively when extended to foreign citizens upon a permit or visa extension does not guarantee the potential for ultimate public retirement plan vesting. The differential treatment between foreign citizens employed by Hennepin County or the former Hennepin County General Hospital and all other foreign citizens employees also is contrary to the Commission’s. Pension Policy Principles and raise questions about the premise for the exclusion in any event. From a drafting standpoint, the two exclusions reference the U.S. visa differently, potentially meaning that one reference maybe obsolete or incorrect or that one reference may mean that there are differences between various U.S. visas that have not been recently fully explored by the Commission.
9. Trade Union Members with Industry Taft-Hartley Retirement Plan Coverage. MSRS, in Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (29), excludes trade union members with industry retirement coverage for one employing unit, the Environmental Services Division of the Metropolitan Council, the successor to the former Metropolitan Waste Control Commission, if

employed after 1977. PERA, in Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clauses (17), (18), (19) and (20), has a similar trade union retirement plan-covered employee exclusion for various tradespersons employed by the City of St. Paul, Independent School District No. 625 (St. Paul), and the Metropolitan Airports Commission beginning in 1997, 2000 and 2001. The Taft-Hartley Act retirement plans frequently applicable to trades personnel provide portability for individuals who shift from employer to employer, but also tend to have stringent break-in-service rules that include service credit forfeitures. For trades personnel who do or might work in and out of the public sector, a continuation of trade union pension plan coverage is very important to maintain portability fractures features and avoid service credit forfeitures, but when it is in addition to public employee retirement coverage, is potentially very costly for the individual, since the general practice is to reduce the trades member's pay by the amount of the trades union pension plan employer contribution in order to avoid having the total compensation cost exceed the going rate in the industry. Other trades personnel have attempted to accommodate the double pension coverage by including the trade union retirement plan coverage as a supplemental retirement plan under Minnesota Statutes, Section 356.24 (see Minn. Stat. Sec. 356.24, Subd. 1, Cl. (8), (9), (10), (12) and (13)) and by having the employer contribution to the supplemental plan included as coverage salary (see Minn. Stat. Sec. 353.01, Subd. 10). The Commission has dealt with this trade union pension covered issue incrementally based on individual trade personnel groups who petition the Legislative for relief. The issue may merit Commission study and the fashioning of a more general solution if there remains a problem to be resolved.

10. Independent Contractors and Employees of Independent Contractors. Independent contractors, employees of independent contractors, and similarly situated Individuals are excluded from retirement plans administered by MSRS, PERA and TRA. The MSRS exclusion, under Minnesota Statutes, Section 352.01, Subdivision 2b, Paragraph (a), Clauses (6), (10), and (18), also extends to persons performing professional services or to persons paid on a fee bases. The MSRS exclusion would benefit from some amalgamation if, for no other reason, to have the content of the three current disparate exclusions all appear together in a single exclusion. The PERA exclusion, under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (23), and Paragraph (b), references only independent contractors and their employees, but specifies that public officer services as a town or city clerk, town or city treasurer, county auditor, county treasurer, county recorder, city manager, or emergency management director may not be classified as an independent contractor. Local government is as likely as state government to utilize professional services provider and to retain persons compensated by fee rather than salary, and if so, the PERA exclusion would benefit from borrowing the appropriate language from the MSRS exclusion. The Teachers Retirement Association (TRA), under Minnesota Statutes, Section 354.05, Subdivision 2, Paragraph (b), Clause (1), excludes independent contractors as defined by the federal Internal Revenue Service, but is silent with respect to employees of independent contractors and handles professional services providers only to the extent that the IRS handles them. Presumably TRA relies on the IRS determinations made under a federal statute, rule or revenue ruling, rather than unpublished administration ruling, and the exclusion would have greater clarity and would better inform TRA members and the public if it included an actual document citation.
11. Board or Commission Members. Under Minnesota Statutes, Section 352.01, Subdivision 2b, Clauses (12), (23), and (24), MSRS excludes state board or commission members in intermittent service if paid on a per diem basis, secretaries, secretary-treasurers, and treasurers of state boards with compensation that does not exceed \$5,000 or who are prohibited by law from rendering more than three years of service, the members of the board of managers and the treasures of the State Agricultural Society unless the treasurer is also the Society's full-time secretary, examination monitors conducting exams required by law, members of fact-finding panels, arbitrators, and labor referees. Under Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause 25, excludes appointees to boards or commissions of governmental subdivisions or their instrumentalities. Portions of the MSRS exclusion appear to be dated, especially the State Agricultural Society portion, and the compensation threshold amount has not been revised since 1993.
12. Retirees. PERA, in Minnesota Statutes, Section 353.01, Subdivision 2b, Paragraph (a), Clause (24), specifically excludes from retirement plan coverage annuitants reemployed by a governmental subdivision, but MSRS and TRA lack the specific exclusion, even though all three exclude reemployed annuitants. As a regulatory mechanism, the retirement plan exclusion provisions function best when they are all inclusive, which argues for exclusions similar to the PERA retiree exclusion added to MSRS and TRA.

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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2360

02/20/2012 Authored by O'Driscoll, Murray, Peppin and LeMieur  
The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act  
1.2 relating to retirement; defined benefit retirement plans administered by the Public  
1.3 Employees Retirement Association; increasing minimum monthly salary amount  
1.4 for plan coverage eligibility; amending Minnesota Statutes 2010, section 353.01,  
1.5 subdivision 2b, by adding a subdivision; Minnesota Statutes 2011 Supplement,  
1.6 section 353.01, subdivision 2a.

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

1.8 Section 1. Minnesota Statutes 2011 Supplement, section 353.01, subdivision 2a,  
1.9 is amended to read:

1.10 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees  
1.11 whose salary exceeds ~~\$425 in any month~~ the minimum monthly salary figure under  
1.12 subdivision 2e and who are not specifically excluded under subdivision 2b or who have  
1.13 not been provided an option to participate under subdivision 2d, whether individually or  
1.14 by action of the governmental subdivision, must participate as members of the association  
1.15 with retirement coverage by the general employees retirement plan under this chapter,  
1.16 the public employees police and fire retirement plan under this chapter, or the local  
1.17 government correctional employees retirement plan under chapter 353E, whichever  
1.18 applies. Membership commences as a condition of their employment on the first day of  
1.19 their employment or on the first day that the eligibility criteria are met, whichever is later.

1.20 Public employees include but are not limited to:

1.21 (1) persons whose salary meets the threshold in this paragraph from employment in  
1.22 one or more positions within one governmental subdivision;

1.23 (2) elected county sheriffs;

2.1 (3) persons who are appointed, employed, or contracted to perform governmental  
 2.2 functions that by law or local ordinance are required of a public officer, including, but  
 2.3 not limited to:

2.4 (i) town and city clerk or treasurer;

2.5 (ii) county auditor, treasurer, or recorder;

2.6 (iii) city manager as defined in section 353.028 who does not exercise the option  
 2.7 provided under subdivision 2d; or

2.8 (iv) emergency management director, as provided under section 12.25;

2.9 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
 2.10 employees defined contribution plan coverage under section 353D.02, subdivision 2;

2.11 (5) full-time employees of the Dakota County Agricultural Society;

2.12 (6) employees of the Minneapolis Firefighters Relief Association or Minneapolis  
 2.13 Police Relief Association who are not excluded employees under subdivision 2b due  
 2.14 to coverage by the relief association pension plan and who elected general employee  
 2.15 retirement plan coverage before August 20, 2009; and

2.16 (7) employees of the Red Wing Port Authority who were first employed by the  
 2.17 Red Wing Port Authority before May 1, 2011, and who are not excluded employees  
 2.18 under subdivision 2b.

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

2.27 (c) If the salary of an included public employee is less than ~~\$425~~ the minimum  
 2.28 monthly salary figure under subdivision 2e in any subsequent month, the member retains  
 2.29 membership eligibility.

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

2.34 **EFFECTIVE DATE.** This section is effective July 1, 2012.

2.35 Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 2b, is amended to read:

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

3.5 (1) persons whose salary from one governmental subdivision never exceeds ~~\$425~~  
3.6 the minimum monthly salary figure under subdivision 2e in a month;

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

3.11 (3) election officers or election judges;

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

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

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

3.20 (7) employees who by virtue of their employment in one governmental subdivision  
3.21 are required by law to be a member of and to contribute to any of the plans or funds  
3.22 administered by the Minnesota State Retirement System, the Teachers Retirement  
3.23 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers  
3.24 Retirement Fund Association, or any police or firefighters relief association governed by  
3.25 section 69.77 that has not consolidated with the Public Employees Retirement Association,  
3.26 or any local police or firefighters consolidation account who have not elected the type of  
3.27 benefit coverage provided by the public employees police and fire fund under sections  
3.28 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6,  
3.29 who have not elected public employees police and fire plan benefit coverage. This clause  
3.30 must not be construed to prevent a person from being a member of and contributing to  
3.31 the Public Employees Retirement Association and also belonging to and contributing to  
3.32 another public pension plan or fund for other service occurring during the same period  
3.33 of time. A person who meets the definition of "public employee" in subdivision 2 by  
3.34 virtue of other service occurring during the same period of time becomes a member of the  
3.35 association unless contributions are made to another public retirement fund on the salary

4.1 based on the other service or to the Teachers Retirement Association by a teacher as  
4.2 defined in section 354.05, subdivision 2;

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

4.8 (9) employees of a governmental subdivision who have not reached the age of  
4.9 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.10 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.11 professional-technical program, or a public or charter high school;

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

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

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

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

4.24 (14) public hospital employees who elected not to participate as members of the  
4.25 association before 1972 and who did not elect to participate from July 1, 1988, to October  
4.26 1, 1988;

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

4.34 (16) except as provided in section 353.87, volunteer firefighters, as defined in  
4.35 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
4.36 but a person who is a volunteer firefighter may still qualify as a public employee under



5.1 subdivision 2 and may be a member of the Public Employees Retirement Association and  
5.2 a participant in the general employees retirement plan or the public employees police  
5.3 and fire plan, whichever applies, on the basis of compensation received from public  
5.4 employment activities other than those as a volunteer firefighter;

5.5 (17) pipefitters and associated trades personnel employed by Independent School  
5.6 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
5.7 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,  
5.8 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
5.9 241, article 2, section 12;

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

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

5.26 (20) plumbers who are employed by the Metropolitan Airports Commission, with  
5.27 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
5.28 who either were first employed after May 1, 2001, or if first employed before May 2,  
5.29 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.30 10, section 6;

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

5.34 (22) persons who are provided supported employment or work-study positions  
5.35 by a governmental subdivision and who participate in an employment or industries  
5.36 program maintained for the benefit of these persons where the governmental subdivision

6.1 limits the position's duration to three years or less, including persons participating in a  
6.2 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
6.3 unemployment relief program where the training or work experience is not provided as a  
6.4 part of, or for, future permanent public employment;

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

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

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

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

6.13 **EFFECTIVE DATE.** This section is effective July 1, 2012.

6.14 Sec. 3. Minnesota Statutes 2010, section 353.01, is amended by adding a subdivision  
6.15 to read:

6.16 **Subd. 2e. Minimum monthly salary amount requirement.** The minimum  
6.17 monthly salary amount required for membership under subdivision 2a is:

6.18 (1) \$425 in any month before July 1, 2012;

6.19 (2) \$773 in any month from July 1, 2012, to June 30, 2013; and

6.20 (3) \$773 plus an amount, rounded up or down to the nearest full dollar amount,  
6.21 representing the percentage change in the Consumer Price Index-All Urban Consumers  
6.22 reported by the Bureau of Labor Statistics of the United States Department of Labor from  
6.23 December 2011 to the most recent prior December, as determined and published by the  
6.24 executive director annually after June 30, 2013.

6.25 **EFFECTIVE DATE.** This section is effective July 1, 2012.

1.1 A bill for an act

1.2 relating to retirement; Public Employees Retirement Association; modifying the  
1.3 membership exclusion provision; increasing the minimum salary threshold figure  
1.4 for membership to \$737 per month and in future \$100 per month increments  
1.5 based on inflation measure increases; amending Minnesota Statutes 2012,  
1.6 sections 353.01, by adding a subdivision; 353.27, by adding a subdivision;  
1.7 Minnesota Statutes 2013 Supplement, section 353.01, subdivisions 2a, 2b.

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

1.9 Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2a,  
1.10 is amended to read:

1.11 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees  
1.12 whose salary exceeds \$425 in any month the applicable monthly threshold salary figure  
1.13 under subdivision 2e and who are not specifically excluded under subdivision 2b or  
1.14 who have not been provided an option to participate under subdivision 2d, whether  
1.15 individually or by action of the governmental subdivision, must participate as members of  
1.16 the association with retirement coverage by the general employees retirement plan under  
1.17 this chapter, the public employees police and fire retirement plan under this chapter, or the  
1.18 local government correctional employees retirement plan under chapter 353E, whichever  
1.19 applies. Membership commences as a condition of their employment on the first day of  
1.20 their employment or on the first day that the eligibility criteria are met, whichever is later.  
1.21 Public employees include but are not limited to:

1.22 (1) persons whose salary meets the threshold in this paragraph from employment in  
1.23 one or more positions within one governmental subdivision;

1.24 (2) elected county sheriffs;

2.1 (3) persons who are appointed, employed, or contracted to perform governmental  
2.2 functions that by law or local ordinance are required of a public officer, including, but  
2.3 not limited to:

2.4 (i) town and city clerk or treasurer;

2.5 (ii) county auditor, treasurer, or recorder;

2.6 (iii) city manager as defined in section 353.028 who does not exercise the option  
2.7 provided under subdivision 2d; or

2.8 (iv) emergency management director, as provided under section 12.25;

2.9 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
2.10 employees defined contribution plan coverage under section 353D.02, subdivision 2;

2.11 (5) full-time employees of the Dakota County Agricultural Society;

2.12 (6) employees of the Red Wing Port Authority who were first employed by the  
2.13 Red Wing Port Authority before May 1, 2011, and who are not excluded employees  
2.14 under subdivision 2b; and

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

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

2.25 (c) If the salary of an included public employee is less than ~~\$425~~ the applicable  
2.26 monthly threshold salary figure under subdivision 2e in any subsequent month, the  
2.27 member retains membership eligibility.

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

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

2.33 Sec. 2. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b, is  
2.34 amended to read:

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

3.5 (1) persons whose salary from one governmental subdivision never exceeds \$425 in  
3.6 a month the applicable monthly threshold salary figure under subdivision 2e;

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

3.10 (3) election officers or election judges;

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

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

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

3.19 (7) employees who by virtue of their employment in one governmental subdivision  
3.20 are required by law to be a member of and to contribute to any of the plans or funds  
3.21 administered by the Minnesota State Retirement System, the Teachers Retirement  
3.22 Association, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers  
3.23 Retirement Fund Association. This clause must not be construed to prevent a person from  
3.24 being a member of and contributing to the Public Employees Retirement Association and  
3.25 also belonging to and contributing to another public pension plan or fund for other service  
3.26 occurring during the same period of time. A person who meets the definition of "public  
3.27 employee" in subdivision 2 by virtue of other service occurring during the same period of  
3.28 time becomes a member of the association unless contributions are made to another public  
3.29 retirement fund on the salary based on the other service or to the Teachers Retirement  
3.30 Association by a teacher as defined in section 354.05, subdivision 2;

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

4.1 (9) employees of a governmental subdivision who have not reached the age of  
4.2 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.3 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.4 professional-technical program, or a public or charter high school;

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

4.7 (11) students who are serving for up to five years in an internship or residency program  
4.8 sponsored by a governmental subdivision, including an accredited educational institution;

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

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

4.17 (14) public hospital employees who elected not to participate as members of the  
4.18 association before 1972 and who did not elect to participate from July 1, 1988, to October  
4.19 1, 1988;

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

4.27 (16) except as provided in section 353.87, volunteer firefighters, as defined in  
4.28 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
4.29 but a person who is a volunteer firefighter may still qualify as a public employee under  
4.30 subdivision 2 and may be a member of the Public Employees Retirement Association and  
4.31 a participant in the general employees retirement plan or the public employees police  
4.32 and fire plan, whichever applies, on the basis of compensation received from public  
4.33 employment activities other than those as a volunteer firefighter;

4.34 (17) pipefitters and associated trades personnel employed by Independent School  
4.35 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
4.36 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,

5.1 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
5.2 241, article 2, section 12;

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

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

5.19 (20) plumbers who are employed by the Metropolitan Airports Commission, with  
5.20 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
5.21 who either were first employed after May 1, 2001, or if first employed before May 2,  
5.22 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.23 10, section 6;

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

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

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

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

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

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

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

6.7 Sec. 3. Minnesota Statutes 2012, section 353.01, is amended by adding a subdivision  
6.8 to read:

6.9 **Subd. 2e. Minimum monthly threshold salary amount requirement.** The  
6.10 minimum monthly threshold salary amount required for retirement plan membership  
6.11 under subdivision 2 is:

6.12 (1) \$425 in any month before January 1, 2015;

6.13 (2) \$737 in any month after December 31, 2014, until December 31, 2015;

6.14 (3) in any month after December 31, 2015, \$737 until the July 1 on which the  
6.15 percentage change in the Consumer Price Index-All Urban Wage Earners and Clerical  
6.16 Workers published by the Bureau of Labor Statistics of the United States Department of  
6.17 Labor from July 2013 to the most recent successive December as determined by the  
6.18 executive director would produce at least a \$100 increase in the figure; and

6.19 (4) in any month after the December 31 in which the threshold figure was increased  
6.20 under clause (3), the increased threshold figure under clause (3) until the January 1 on  
6.21 which the percentage change as described in clause (3) would produce at least another  
6.22 \$100 increase in the figure.

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

6.24 Sec. 4. Minnesota Statutes 2012, section 353.27, is amended by adding a subdivision  
6.25 to read:

6.26 **Subd. 10a. Written disclosure of retirement plan eligibility status determination.**

6.27 (a) Upon employment of a person by a governmental subdivision, the governmental  
6.28 subdivision shall make a determination of whether or not the person is eligible for  
6.29 retirement coverage by a retirement plan administered by the association under section  
6.30 352.01, subdivisions 2, 2a, and 2b.

6.31 (b) If the determination under paragraph (a) is to exclude a person from retirement  
6.32 coverage, the governmental subdivision shall provide the person with a written notice  
6.33 of exclusion, and indication of the statutory basis for the exclusion, a statement of the



7.1 rationale for the exclusion, and an indication of the subdivision's process for appealing  
7.2 the determination. The exclusion notice must be provided within two weeks of the date  
7.3 of the determination. A copy of the exclusion notice must be retained in the person's  
7.4 personnel file.

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

1.1 A bill for an act

1.2 relating to retirement; Public Employees Retirement Association; modifying  
1.3 the retirement plan membership inclusion/exclusion provision; increasing the  
1.4 minimum salary threshold figure for membership by \$100 periodically based  
1.5 on cost of living index increases; amending Minnesota Statutes 2012, sections  
1.6 353.01, by adding a subdivision; 353.27, by adding a subdivision; Minnesota  
1.7 Statutes 2013 Supplement, section 353.01, subdivisions 2a, 2b.

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

1.9 Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2a,  
1.10 is amended to read:

1.11 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees  
1.12 whose salary exceeds \$425 in any month the applicable monthly threshold salary figure  
1.13 under subdivision 2e and who are not specifically excluded under subdivision 2b or  
1.14 who have not been provided an option to participate under subdivision 2d, whether  
1.15 individually or by action of the governmental subdivision, must participate as members of  
1.16 the association with retirement coverage by the general employees retirement plan under  
1.17 this chapter, the public employees police and fire retirement plan under this chapter, or the  
1.18 local government correctional employees retirement plan under chapter 353E, whichever  
1.19 applies. Membership commences as a condition of their employment on the first day of  
1.20 their employment or on the first day that the eligibility criteria are met, whichever is later.  
1.21 Public employees include but are not limited to:

1.22 (1) persons whose salary meets the threshold in this paragraph from employment in  
1.23 one or more positions within one governmental subdivision;

1.24 (2) elected county sheriffs;

2.1 (3) persons who are appointed, employed, or contracted to perform governmental  
2.2 functions that by law or local ordinance are required of a public officer, including, but  
2.3 not limited to:

2.4 (i) town and city clerk or treasurer;

2.5 (ii) county auditor, treasurer, or recorder;

2.6 (iii) city manager as defined in section 353.028 who does not exercise the option  
2.7 provided under subdivision 2d; or

2.8 (iv) emergency management director, as provided under section 12.25;

2.9 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
2.10 employees defined contribution plan coverage under section 353D.02, subdivision 2;

2.11 (5) full-time employees of the Dakota County Agricultural Society;

2.12 (6) employees of the Red Wing Port Authority who were first employed by the  
2.13 Red Wing Port Authority before May 1, 2011, and who are not excluded employees  
2.14 under subdivision 2b; and

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

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

2.25 (c) If the salary of an included public employee is less than ~~\$425~~ the applicable  
2.26 monthly threshold salary figure under subdivision 2e in any subsequent month, the  
2.27 member retains membership eligibility.

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

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

2.33 Sec. 2. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b, is  
2.34 amended to read:

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

3.5 (1) persons whose salary from one governmental subdivision never exceeds \$425 in  
3.6 a month the applicable monthly threshold salary figure under subdivision 2e;

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

3.10 (3) election officers or election judges;

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

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

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

3.19 (7) employees who by virtue of their employment in one governmental subdivision  
3.20 are required by law to be a member of and to contribute to any of the plans or funds  
3.21 administered by the Minnesota State Retirement System, the Teachers Retirement  
3.22 Association, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers  
3.23 Retirement Fund Association. This clause must not be construed to prevent a person from  
3.24 being a member of and contributing to the Public Employees Retirement Association and  
3.25 also belonging to and contributing to another public pension plan or fund for other service  
3.26 occurring during the same period of time. A person who meets the definition of "public  
3.27 employee" in subdivision 2 by virtue of other service occurring during the same period of  
3.28 time becomes a member of the association unless contributions are made to another public  
3.29 retirement fund on the salary based on the other service or to the Teachers Retirement  
3.30 Association by a teacher as defined in section 354.05, subdivision 2;

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

4.1 (9) employees of a governmental subdivision who have not reached the age of  
4.2 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.3 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.4 professional-technical program, or a public or charter high school;

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

4.7 (11) students who are serving for up to five years in an internship or residency program  
4.8 sponsored by a governmental subdivision, including an accredited educational institution;

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

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

4.17 (14) public hospital employees who elected not to participate as members of the  
4.18 association before 1972 and who did not elect to participate from July 1, 1988, to October  
4.19 1, 1988;

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

4.27 (16) except as provided in section 353.87, volunteer firefighters, as defined in  
4.28 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
4.29 but a person who is a volunteer firefighter may still qualify as a public employee under  
4.30 subdivision 2 and may be a member of the Public Employees Retirement Association and  
4.31 a participant in the general employees retirement plan or the public employees police  
4.32 and fire plan, whichever applies, on the basis of compensation received from public  
4.33 employment activities other than those as a volunteer firefighter;

4.34 (17) pipefitters and associated trades personnel employed by Independent School  
4.35 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
4.36 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,

5.1 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
5.2 241, article 2, section 12;

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

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

5.19 (20) plumbers who are employed by the Metropolitan Airports Commission, with  
5.20 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
5.21 who either were first employed after May 1, 2001, or if first employed before May 2,  
5.22 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.23 10, section 6;

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

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

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

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

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

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

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

6.7 Sec. 3. Minnesota Statutes 2012, section 353.01, is amended by adding a subdivision  
6.8 to read:

6.9 **Subd. 2e. Minimum monthly threshold salary amount requirement.** The  
6.10 minimum monthly threshold salary amount required for retirement plan membership  
6.11 under subdivision 2 is:

6.12 (1) \$425 in any month before January 1, 2015;

6.13 (2) \$525 in any month after December 31, 2014, until the July 1 occurring after the  
6.14 determination is made that the change in the Consumer Price Index-All Urban Wage Earners  
6.15 and Clerical Workers published by the Bureau of Labor Statistics of the United States  
6.16 Department of Labor from July 2013 to the most recent prior December as determined by  
6.17 the executive director would produce at least a \$100 increase in the figure; and

6.18 (3) in any month after the December 31 in which the threshold figure was increased  
6.19 under clause (2), the increased threshold figure under clause (2) until the July 1 after  
6.20 which the percentage change as described in clause (2) would produce at least another  
6.21 \$100 increase in the figure.

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

6.23 Sec. 4. Minnesota Statutes 2012, section 353.27, is amended by adding a subdivision  
6.24 to read:

6.25 **Subd. 10a. Written disclosure of retirement plan eligibility status determination.**

6.26 (a) Upon employment of a person by a governmental subdivision, the governmental  
6.27 subdivision shall make a determination of whether or not the person is eligible for  
6.28 retirement coverage by a retirement plan administered by the association under section  
6.29 352.01, subdivisions 2, 2a, and 2b.

6.30 (b) If the determination under paragraph (a) is to exclude a person from retirement  
6.31 coverage, the governmental subdivision shall provide the person with a written notice  
6.32 of exclusion, and indication of the statutory basis for the exclusion, a statement of the  
6.33 rationale for the exclusion, and an indication of the subdivision's process for appealing

7.1 the determination. The exclusion notice must be provided within two weeks of the date  
7.2 of the determination. A copy of the exclusion notice must be retained in the person's  
7.3 personnel file.

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



1.1 A bill for an act

1.2 relating to retirement; Public Employees Retirement Association; modifying  
1.3 the retirement plan membership inclusion/exclusion provision; shifting to  
1.4 employment status and annual earnings to determine membership eligibility;  
1.5 amending Minnesota Statutes 2012, section 353.27, by adding a subdivision;  
1.6 Minnesota Statutes 2013 Supplement, section 353.01, subdivisions 2a, 2b;  
1.7 repealing Minnesota Statutes 2012, section 353.01, subdivisions 12a, 12b.

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

1.9 Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2a,  
1.10 is amended to read:

1.11 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees  
1.12 ~~whose salary exceeds \$425 in any month and~~ who are not specifically excluded under  
1.13 subdivision 2b or who have not been provided an option to participate under subdivision  
1.14 2d, whether individually or by action of the governmental subdivision, must participate as  
1.15 members of the association with retirement coverage by the general employees retirement  
1.16 plan under this chapter, the public employees police and fire retirement plan under this  
1.17 chapter, or the local government correctional employees retirement plan under chapter  
1.18 353E, whichever applies. Membership commences as a condition of their employment on  
1.19 the first day of their employment or on the first day that the eligibility criteria are met,  
1.20 whichever is later. Public employees include but are not limited to:

1.21 (1) persons whose salary meets the threshold in this paragraph from employment in  
1.22 one or more positions within one governmental subdivision;

1.23 (2) elected county sheriffs;

2.1 (3) persons who are appointed, employed, or contracted to perform governmental  
2.2 functions that by law or local ordinance are required of a public officer, including, but  
2.3 not limited to:

2.4 (i) town and city clerk or treasurer;

2.5 (ii) county auditor, treasurer, or recorder;

2.6 (iii) city manager as defined in section 353.028 who does not exercise the option  
2.7 provided under subdivision 2d; or

2.8 (iv) emergency management director, as provided under section 12.25;

2.9 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
2.10 employees defined contribution plan coverage under section 353D.02, subdivision 2;

2.11 (5) full time employees hired to provide continuous employment for more than  
2.12 six consecutive calendar months

2.13 ~~(5)~~ (6) full-time employees of the Dakota County Agricultural Society;

2.14 ~~(6)~~ (7) employees of the Red Wing Port Authority who were first employed by the  
2.15 Red Wing Port Authority before May 1, 2011, and who are not excluded employees  
2.16 under subdivision 2b; and

2.17 ~~(7)~~ (8) employees of the Seaway Port Authority of Duluth who are not excluded  
2.18 employees under subdivision 2b.

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

2.27 (c) If ~~the salary of an included public employee is less than \$425 in any subsequent~~  
2.28 ~~month~~ subsequently transferred or employed without a significant break in service  
2.29 in another employment position with the same employing unit, the member retains  
2.30 membership eligibility.

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

2.35 **EFFECTIVE DATE.** This section is effective December 31, 2014.

3.1 Sec. 2. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b, is  
3.2 amended to read:

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

3.7 (1) persons ~~whose salary from one~~ who are employed by a governmental subdivision  
3.8 ~~never exceeds \$425 in a month~~ in a position that is certified in advance in writing by the  
3.9 hiring authority as having a duration of less than six consecutive months or who are  
3.10 employed in regular part-time positions of more than six months duration with an annual  
3.11 salary amount of less than \$6,300 if employed by a governmental subdivision that is not a  
3.12 school district or less than \$4,600 if employed by a school district, subject to adjustment  
3.13 under paragraph (c);

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

3.17 (3) election officers or election judges;

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

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

3.24 ~~(6)~~ (5) employees who are employed by reason of work emergency caused by fire,  
3.25 flood, storm, or similar disaster;

3.26 ~~(7)~~ (6) employees who by virtue of their employment in one governmental  
3.27 subdivision are required by law to be a member of and to contribute to any of the plans or  
3.28 funds administered by the Minnesota State Retirement System, the Teachers Retirement  
3.29 Association, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers  
3.30 Retirement Fund Association. This clause must not be construed to prevent a person from  
3.31 being a member of and contributing to the Public Employees Retirement Association and  
3.32 also belonging to and contributing to another public pension plan or fund for other service  
3.33 occurring during the same period of time. A person who meets the definition of "public  
3.34 employee" in subdivision 2 by virtue of other service occurring during the same period of  
3.35 time becomes a member of the association unless contributions are made to another public

4.1 retirement fund on the salary based on the other service or to the Teachers Retirement  
4.2 Association by a teacher as defined in section 354.05, subdivision 2;

4.3 ~~(8)~~ (7) persons who are members of a religious order and are excluded from coverage  
4.4 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the  
4.5 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),  
4.6 as amended through January 1, 1987, if no irrevocable election of coverage has been made  
4.7 under section 3121(r) of the Internal Revenue Code of 1954, as amended;

4.8 ~~(9)~~ (8) employees of a governmental subdivision who have not reached the age of  
4.9 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.10 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.11 professional-technical program, or a public or charter high school;

4.12 ~~(10)~~ (9) resident physicians, medical interns, and pharmacist residents and pharmacist  
4.13 interns who are serving in a degree or residency program in public hospitals or clinics;

4.14 ~~(11)~~ (10) students who are serving for up to five years in an internship or residency  
4.15 program sponsored by a governmental subdivision, including an accredited educational  
4.16 institution;

4.17 ~~(12)~~ (11) persons who hold a part-time adult supplementary technical college license  
4.18 who render part-time teaching service in a technical college;

4.19 ~~(13)~~ (12) except for employees of Hennepin County or Hennepin Healthcare System,  
4.20 Inc., foreign citizens who are employed by a governmental subdivision under a work  
4.21 permit, or an H-1b visa initially issued or extended for a combined period less than three  
4.22 years of employment. Upon extension of the employment beyond the three-year period,  
4.23 the foreign citizens must be reported for membership beginning the first of the month  
4.24 thereafter provided the monthly earnings threshold as provided under subdivision 2a is met;

4.25 ~~(14)~~ (13) public hospital employees who elected not to participate as members  
4.26 of the association before 1972 and who did not elect to participate from July 1, 1988,  
4.27 to October 1, 1988;

4.28 ~~(15)~~ (14) except as provided in section 353.86, volunteer ambulance service  
4.29 personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance  
4.30 service personnel may still qualify as public employees under subdivision 2 and may  
4.31 be members of the Public Employees Retirement Association and participants in the  
4.32 general employees retirement plan or the public employees police and fire plan, whichever  
4.33 applies, on the basis of compensation received from public employment service other than  
4.34 service as volunteer ambulance service personnel;

4.35 ~~(16)~~ (15) except as provided in section 353.87, volunteer firefighters, as defined in  
4.36 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,

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

5.6 ~~(17)~~ (16) pipefitters and associated trades personnel employed by Independent  
5.7 School District No. 625, St. Paul, with coverage under a collective bargaining agreement  
5.8 by the pipefitters local 455 pension plan who were either first employed after May 1,  
5.9 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997,  
5.10 chapter 241, article 2, section 12;

5.11 ~~(18)~~ (17) electrical workers, plumbers, carpenters, and associated trades personnel  
5.12 who are employed by Independent School District No. 625, St. Paul, or the city of St.  
5.13 Paul, who have retirement coverage under a collective bargaining agreement by the  
5.14 Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34  
5.15 pension plan, or the pension plan applicable to Carpenters Local 87 who were either first  
5.16 employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be  
5.17 excluded under Laws 2000, chapter 461, article 7, section 5;

5.18 ~~(19)~~ (18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
5.19 painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul  
5.20 or Independent School District No. 625, St. Paul, with coverage under a collective  
5.21 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,  
5.22 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324  
5.23 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities  
5.24 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if  
5.25 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special  
5.26 Session chapter 10, article 10, section 6;

5.27 ~~(20)~~ (19) plumbers who are employed by the Metropolitan Airports Commission,  
5.28 with coverage under a collective bargaining agreement by the Plumbers Local 34 pension  
5.29 plan, who either were first employed after May 1, 2001, or if first employed before May 2,  
5.30 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.31 10, section 6;

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

5.35 ~~(22)~~ (20) persons who are provided supported employment or work-study positions  
5.36 by a governmental subdivision and who participate in an employment or industries

6.1 program maintained for the benefit of these persons where the governmental subdivision  
6.2 limits the position's duration to up to five years, including persons participating in a  
6.3 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
6.4 unemployment relief program where the training or work experience is not provided as a  
6.5 part of, or for, future permanent public employment;

6.6 ~~(23)~~ (21) independent contractors and the employees of independent contractors;

6.7 ~~(24)~~ (22) reemployed annuitants of the association during the course of that  
6.8 reemployment; and

6.9 ~~(25)~~ (23) persons appointed to serve on a board or commission of a governmental  
6.10 subdivision or an instrumentality thereof.

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

6.14 (c) The minimum annual salary thresholds must be adjusted by the executive  
6.15 director if the change in the Consumer Price Index-All Urban Wage Earners and Clerical  
6.16 Workers published by the Bureau of Labor Statistics of the United States Department of  
6.17 Labor from June 2013 to the most recent successive June would produce a \$1,200 increase  
6.18 in the non school district figure or a \$900 increase in the school district figure if applied  
6.19 to the figure specified in paragraph (a), clause (1), or a revised minimum annual salary  
6.20 threshold figure if applicable.

6.21 **EFFECTIVE DATE.** This section is effective December 31, 2014.

6.22 Sec. 3. Minnesota Statutes 2012, section 353.27, is amended by adding a subdivision  
6.23 to read:

6.24 **Subd. 10a. Written disclosure of retirement plan eligibility status determination.**

6.25 (a) Upon employment of a person by a governmental subdivision, the governmental  
6.26 subdivision shall make a determination of whether or not the person is eligible for  
6.27 retirement coverage by a retirement plan administered by the association under section  
6.28 352.01, subdivisions 2, 2a, and 2b.

6.29 (b) If the determination under paragraph (a) is to exclude a person from retirement  
6.30 coverage, the governmental subdivision shall provide the person with a written notice  
6.31 of exclusion, and indication of the statutory basis for the exclusion, a statement of the  
6.32 rationale for the exclusion, and an indication of the subdivision's process for appealing  
6.33 the determination. The exclusion notice must be provided within two weeks of the date  
6.34 of the determination. A copy of the exclusion notice must be retained in the person's  
6.35 personnel file.

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

7.2 Sec. 4. **REPEALER.**

7.3 Minnesota Statutes 2012, section 353.01, subdivisions 12a and 12b, are repealed.

7.4 **EFFECTIVE DATE.** This section is effective December 31, 2014.

1.1 A bill for an act

1.2 relating to retirement; Public Employees Retirement Association; modifying the  
1.3 retirement plan membership inclusion/exclusion provision; basing membership  
1.4 eligibility on expected employment duration and annual public employment  
1.5 hours; amending Minnesota Statutes 2012, section 353.27, by adding a  
1.6 subdivision; Minnesota Statutes 2013 Supplement, section 353.01, subdivisions  
1.7 2a, 2b.

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

1.9 Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2a,  
1.10 is amended to read:

1.11 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees  
1.12 ~~whose salary exceeds \$425 in any month and~~ who are not specifically excluded under  
1.13 subdivision 2b or who have not been provided an option to participate under subdivision  
1.14 2d, whether individually or by action of the governmental subdivision, must participate as  
1.15 members of the association with retirement coverage by the general employees retirement  
1.16 plan under this chapter, the public employees police and fire retirement plan under this  
1.17 chapter, or the local government correctional employees retirement plan under chapter  
1.18 353E, whichever applies. Membership commences as a condition of their employment on  
1.19 the first day of their employment or on the first day that the eligibility criteria are met,  
1.20 whichever is later. Public employees include but are not limited to:

1.21 (1) persons whose salary meets the threshold in this paragraph from employment in  
1.22 one or more positions within one governmental subdivision;

1.23 (2) elected county sheriffs;



2.1 (3) persons who are appointed, employed, or contracted to perform governmental  
2.2 functions that by law or local ordinance are required of a public officer, including, but  
2.3 not limited to:

2.4 (i) town and city clerk or treasurer;

2.5 (ii) county auditor, treasurer, or recorder;

2.6 (iii) city manager as defined in section 353.028 who does not exercise the option  
2.7 provided under subdivision 2d; or

2.8 (iv) emergency management director, as provided under section 12.25;

2.9 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
2.10 employees defined contribution plan coverage under section 353D.02, subdivision 2;

2.11 (5) persons employed in a position that is expected to continue for more than six  
2.12 months each year and expected to work for more than 780 hours per year if the employing  
2.13 governmental subdivision is not a school district or for more than 525 hours per year if the  
2.14 employing governmental subdivision is a school district;

2.15 ~~(5)~~ (6) full-time employees of the Dakota County Agricultural Society;

2.16 ~~(6)~~ (7) employees of the Red Wing Port Authority who were first employed by the  
2.17 Red Wing Port Authority before May 1, 2011, and who are not excluded employees  
2.18 under subdivision 2b; and

2.19 ~~(7)~~ (8) employees of the Seaway Port Authority of Duluth who are not excluded  
2.20 employees under subdivision 2b.

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

2.29 (c) ~~If the salary of an included public employee is less than \$425 in any subsequent~~  
2.30 ~~month, the member~~ subsequently transferred to or employed in another employment  
2.31 position with the same employing unit without a substantial break in service, the person  
2.32 retains membership eligibility.

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

3.1 **EFFECTIVE DATE.** This section is effective December 31, 2014.

3.2 Sec. 2. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b, is  
3.3 amended to read:

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

3.8 (1) ~~persons whose salary from one~~ A person who is employed by a governmental  
3.9 ~~subdivision never exceeds \$425 in a month~~ who is certified by the applicable hiring  
3.10 authority as having employment limited to less than six months during the next 12 months  
3.11 or who is certified by the applicable hiring authority as having employment that is limited  
3.12 to no more than 780 hours in the succeeding 12 months if the government subdivision is  
3.13 not a school district or is limited to no more than 525 hours in the succeeding 12 months  
3.14 if the governmental subdivision is a school district and the person was not actually  
3.15 employed for six or more months and the person was not actually employed by 780 hours  
3.16 or 525 hours, whichever applies;

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

3.20 (3) election officers or election judges;

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

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

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

3.29 (7) employees who by virtue of their employment in one governmental subdivision  
3.30 are required by law to be a member of and to contribute to any of the plans or funds  
3.31 administered by the Minnesota State Retirement System, the Teachers Retirement  
3.32 Association, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers  
3.33 Retirement Fund Association. This clause must not be construed to prevent a person from  
3.34 being a member of and contributing to the Public Employees Retirement Association and  
3.35 also belonging to and contributing to another public pension plan or fund for other service

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

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

4.11 (9) employees of a governmental subdivision who have not reached the age of  
4.12 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.13 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.14 professional-technical program, or a public or charter high school;

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

4.17 (11) students who are serving for up to five years in an internship or residency program  
4.18 sponsored by a governmental subdivision, including an accredited educational institution;

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

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

4.27 (14) public hospital employees who elected not to participate as members of the  
4.28 association before 1972 and who did not elect to participate from July 1, 1988, to October  
4.29 1, 1988;

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

5.1 (16) except as provided in section 353.87, volunteer firefighters, as defined in  
5.2 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
5.3 but a person who is a volunteer firefighter may still qualify as a public employee under  
5.4 subdivision 2 and may be a member of the Public Employees Retirement Association and  
5.5 a participant in the general employees retirement plan or the public employees police  
5.6 and fire plan, whichever applies, on the basis of compensation received from public  
5.7 employment activities other than those as a volunteer firefighter;

5.8 (17) pipefitters and associated trades personnel employed by Independent School  
5.9 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
5.10 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,  
5.11 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
5.12 241, article 2, section 12;

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

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

5.29 (20) plumbers who are employed by the Metropolitan Airports Commission, with  
5.30 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
5.31 who either were first employed after May 1, 2001, or if first employed before May 2,  
5.32 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.33 10, section 6;

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

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

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

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

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

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

6.16 (c) A person who is actually excluded under paragraph (a), clause (1), and who is  
6.17 actually employed by a governmental subdivision for at least six months or who is actually  
6.18 employed by a governmental subdivision other than a school district for more than 780  
6.19 hours during a 12-month period or is actually employed by a school district for more than  
6.20 525 hours during a 12-month period must be included in plan membership retroactive to  
6.21 the initial date of hire. Member contributions related to the retroactive service credit  
6.22 period must be recouped by doubling the person's contribution rate deduction over a  
6.23 period equal to the retroactive service credit period. The governmental unit employing  
6.24 the person, within 30 days of determination of the coverage error, must pay, in a lump  
6.25 sum, the amount of the unpaid employer contributions and interest on the member and  
6.26 employer contribution amounts at the rate of 0.71 percent from the initial date of the  
6.27 person's employment by the governmental subdivision to the date of payment

6.28 **EFFECTIVE DATE.** This section is effective December 31, 2014.

6.29 Sec. 3. Minnesota Statutes 2012, section 353.27, is amended by adding a subdivision  
6.30 to read:

6.31 **Subd. 10a. Written disclosure of retirement plan eligibility status determination.**

6.32 (a) Upon employment of a person by a governmental subdivision, the governmental  
6.33 subdivision shall make a determination of whether or not the person is eligible for  
6.34 retirement coverage by a retirement plan administered by the association under section  
6.35 352.01, subdivisions 2, 2a, and 2b.

7.1 (b) If the determination under paragraph (a) is to exclude a person from retirement  
7.2 coverage, the governmental subdivision shall provide the person with a written notice  
7.3 of exclusion, and indication of the statutory basis for the exclusion, a statement of the  
7.4 rationale for the exclusion, and an indication of the subdivision's process for appealing  
7.5 the determination. The exclusion notice must be provided within two weeks of the date  
7.6 of the determination. A copy of the exclusion notice must be retained in the person's  
7.7 personnel file.

7.8 **EFFECTIVE DATE.** This section is effective July 1, 2014.