

1.1 A bill for an act

1.2 relating to relating to retirement; Public Employees Retirement Association;  
 1.3 modifying the retirement plan membership inclusion and exclusion provisions;  
 1.4 shifting to employment status and annual earnings to determine membership  
 1.5 eligibility; amending Minnesota Statutes 2012, sections 353.01, by adding  
 1.6 a subdivision; 353.27, by adding a subdivision; Minnesota Statutes 2013  
 1.7 Supplement, section 353.01, subdivisions 2a, 2b; repealing Minnesota Statutes  
 1.8 2012, section 353.01, subdivisions 12a, 12b.

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

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

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

1.23 (1) on the date of hire for a public employee who is employed in one or more  
 1.24 positions by a governmental subdivision reasonably expected to last for more than six  
 1.25 consecutive months to provide services that are reasonably expected to provide an annual  
 1.26 salary in excess of the minimum amount in subdivision 2e as applicable; or

2.1 (2) if the conditions in clause (1) are not met, the first day of the pay period  
2.2 immediately following the date in which a public employee, who has been employed  
2.3 for more than six consecutive months, has received total salary in excess of the annual  
2.4 minimum amount in subdivision 2e.

2.5 (b) Once a public employee qualifies for membership, participation must continue for  
2.6 all periods of subsequent employment with that employer unless the employee terminates  
2.7 public service under subdivision 11a or terminates membership under subdivision 11b.

2.8 (c) Public employees include but are not limited to:

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

2.11 (2) elected county sheriffs;

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

2.15 (i) town and city clerk or treasurer;

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

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

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

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

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

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

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

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

3.1 ~~(e) (e)~~ If the salary of an included public employee is less than became a member  
 3.2 of the association before January 1, 2015, based on earning more than \$425 in any  
 3.3 subsequent a month, the member retains membership eligibility.

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

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

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

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

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

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

3.21 ~~(3) (2)~~ election officers or election judges;

3.22 ~~(4) (3)~~ patient and inmate personnel who perform services for a governmental  
 3.23 subdivision;

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

3.28 ~~(6) (4)~~ employees who are employed by reason of work emergency caused by fire,  
 3.29 flood, storm, or similar disaster;

3.30 ~~(7) (5)~~ employees who by virtue of their employment in one governmental  
 3.31 subdivision are required by law to be a member of and to contribute to any of the plans or  
 3.32 funds administered by the Minnesota State Retirement System, the Teachers Retirement  
 3.33 Association, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers  
 3.34 Retirement Fund Association. This clause must not be construed to prevent a person from  
 3.35 being a member of and contributing to the Public Employees Retirement Association and

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

4.7 ~~(8)~~ (6) persons who are members of a religious order and are excluded from coverage  
4.8 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the  
4.9 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),  
4.10 as amended through January 1, 1987, if no irrevocable election of coverage has been made  
4.11 under section 3121(r) of the Internal Revenue Code of 1954, as amended;

4.12 ~~(9)~~ (7) employees of a governmental subdivision who have not reached the age of  
4.13 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
4.14 basis at an accredited school, college, or university in an undergraduate, graduate, or  
4.15 professional-technical program, or a public or charter high school;

4.16 ~~(10)~~ (8) resident physicians, medical interns, and pharmacist residents and pharmacist  
4.17 interns who are serving in a degree or residency program in public hospitals or clinics;

4.18 ~~(11)~~ (9) students who are serving for up to five years in an internship or residency  
4.19 program sponsored by a governmental subdivision, including an accredited educational  
4.20 institution;

4.21 ~~(12)~~ (10) persons who hold a part-time adult supplementary technical college license  
4.22 who render part-time teaching service in a technical college;

4.23 ~~(13)~~ (11) except for employees of Hennepin County or Hennepin Healthcare System,  
4.24 Inc., foreign citizens who are employed by a governmental subdivision under a work  
4.25 permit, or an H-1b visa initially issued or extended for a combined period less than three  
4.26 years of employment. Upon extension of the employment beyond the three-year period,  
4.27 the foreign citizens must be reported for membership beginning the first ~~of the month~~  
4.28 ~~thereafter provided the monthly earnings threshold~~ day of the subsequent pay period in  
4.29 which the membership eligibility criteria as provided under subdivision 2a is met;

4.30 ~~(14)~~ (12) public hospital employees who elected not to participate as members  
4.31 of the association before 1972 and who did not elect to participate from July 1, 1988,  
4.32 to October 1, 1988;

4.33 ~~(15)~~ (13) except as provided in section 353.86, volunteer ambulance service  
4.34 personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance  
4.35 service personnel may still qualify as public employees under subdivision 2 and may  
4.36 be members of the Public Employees Retirement Association and participants in the

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

5.4 ~~(16)~~ (14) except as provided in section 353.87, volunteer firefighters, as defined in  
5.5 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,  
5.6 but a person who is a volunteer firefighter may still qualify as a public employee under  
5.7 subdivision 2 and may be a member of the Public Employees Retirement Association and  
5.8 a participant in the general employees retirement plan or the public employees police  
5.9 and fire plan, whichever applies, on the basis of compensation received from public  
5.10 employment activities other than those as a volunteer firefighter;

5.11 ~~(17)~~ (15) pipefitters and associated trades personnel employed by Independent  
5.12 School District No. 625, St. Paul, with coverage under a collective bargaining agreement  
5.13 by the pipefitters local 455 pension plan who were either first employed after May 1,  
5.14 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997,  
5.15 chapter 241, article 2, section 12;

5.16 ~~(18)~~ (16) electrical workers, plumbers, carpenters, and associated trades personnel  
5.17 who are employed by Independent School District No. 625, St. Paul, or the city of St.  
5.18 Paul, who have retirement coverage under a collective bargaining agreement by the  
5.19 Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34  
5.20 pension plan, or the pension plan applicable to Carpenters Local 87 who were either first  
5.21 employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be  
5.22 excluded under Laws 2000, chapter 461, article 7, section 5;

5.23 ~~(19)~~ (17) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
5.24 painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul  
5.25 or Independent School District No. 625, St. Paul, with coverage under a collective  
5.26 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,  
5.27 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324  
5.28 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities  
5.29 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if  
5.30 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special  
5.31 Session chapter 10, article 10, section 6;

5.32 ~~(20)~~ (18) plumbers who are employed by the Metropolitan Airports Commission,  
5.33 with coverage under a collective bargaining agreement by the Plumbers Local 34 pension  
5.34 plan, who either were first employed after May 1, 2001, or if first employed before May 2,  
5.35 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
5.36 10, section 6;

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

6.4 (22) (19) persons who are provided supported employment or work-study positions  
6.5 by a governmental subdivision and who participate in an employment or industries  
6.6 program maintained for the benefit of these persons where the governmental subdivision  
6.7 limits the position's duration to up to five years, including persons participating in a  
6.8 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
6.9 unemployment relief program where the training or work experience is not provided as a  
6.10 part of, or for, future permanent public employment;

6.11 (23) (20) independent contractors and the employees of independent contractors;

6.12 (24) (21) reemployed annuitants of the association during the course of that  
6.13 reemployment; and

6.14 (25) (22) persons appointed to serve on a board or commission of a governmental  
6.15 subdivision or an instrumentality thereof.

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

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

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

6.22 Subd. 2e. **Minimum salary thresholds.** (a) The minimum annual salary thresholds  
6.23 used to determine participation in the association, until they are adjusted under clause  
6.24 (2), are:

6.25 (1) \$4,400 for an individual employed by a school district to work for the school  
6.26 year; and

6.27 (2) \$6,000 for all other public employees.

6.28 (b) The executive director shall determine when a cumulative change in the  
6.29 Consumer Price Index-All Urban Wage Earners and Clerical Workers (CPI-W) published  
6.30 by the Bureau of Labor Statistics of the United States Department of Labor for consecutive  
6.31 periods from July 1 to June 30 of each fiscal year, up to an annual increase of 2.5 percent,  
6.32 when applied to the annual minimum salary thresholds under this subdivision, produces a  
6.33 cumulative increase of \$900 in the salary threshold for school employees, or a cumulative  
6.34 increase of \$1,200 in the salary threshold for all other public employees.

7.1 (c) Following a determination that a change is required in the salary thresholds used  
7.2 to determine participation in the association, the annual salary threshold shall be adjusted  
7.3 at the beginning of the next fiscal year for school employees and the beginning of the next  
7.4 calendar year for all other public employees.

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

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

7.8 Subd. 10a. **Written disclosure of membership exclusion determination.** If the  
7.9 determination by the employer under section 353.01, subdivision 2a, paragraph (a), is to  
7.10 exclude a public employee from membership, the governmental subdivision shall provide  
7.11 the employee with a written notice of the exclusion on a form prescribed by the executive  
7.12 director. The notice must include the statutory basis for the exclusion and information  
7.13 about the employee's right to appeal the determination to the association under section  
7.14 356.96. The employer must provide the exclusion notice to the employee within two  
7.15 weeks of the date of the determination and shall retain a copy in the person's personnel file.

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

7.17 Sec. 5. **REPEALER.**

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

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

**353.01 DEFINITIONS.**

Subd. 12a. **Temporary position.** (a) "Temporary position" means an employment position predetermined by the employer at the time of hiring to be a period of six months or less. Temporary position also means an employment position occupied by a person hired by the employer as a temporary replacement who is employed for a predetermined period of six months or less.

(b) "Temporary position" does not mean an employment position for a specified or unspecified term in which a person serves a probationary period as a requirement for subsequent employment on a permanent or unlimited basis.

(c) If employment in a temporary position extends beyond six consecutive months, the head of the department shall report the employee for membership if salary in any month exceeds the salary threshold specified in subdivision 2a. The membership eligibility of an employee who resigns or is dismissed from a temporary position and accepts another temporary position in the same governmental subdivision within 30 days must be determined on the total length of employment rather than on each separate position.

Subd. 12b. **Seasonal position.** "Seasonal position" means a position where the nature of the work or its duration are related to a specific season or seasons of the year, regardless of whether or not the employing agency anticipates that the same employee will return to the position each season in which it becomes available. The entire period of employment in a year must be used to determine whether or not a position may be excluded as seasonal when there is less than a 30-day break between one seasonal position and a subsequent seasonal position for employment with the same governmental employer. Seasonal positions include, but are not limited to, coaching athletic activities or employment to plow snow or to maintain roads or parks, or to operate skating rinks, ski lodges, golf courses, or swimming pools.