



H.F. 1377
(Murphy, M.)

S.F. 1114
(Reinert)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA
Relevant Provisions of Law: Minnesota Statutes, Section 353.01
General Nature of Proposal: Including Seaway Port Authority of Duluth Employees in PERA-General Retirement Coverage
Date of Summary: February 20, 2012

Specific Proposed Changes

- Amends the PERA-General governing law by including current and future employees of the Seaway Port Authority of Duluth in PERA-General retirement coverage and membership.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of including previously excluded public sector employees in PERA-General.
2. Seaway Port Authority of Duluth status as governmental subdivision.
3. Actuarial impact of service credit and asset transfer on PERA-General.
4. Appropriateness of the approval of the shift of public employees from defined contribution retirement plan coverage to defined benefit retirement plan coverage.
5. Appropriateness of excluding service credit transfer PERA-General members from Rule of 90 Eligibility.
6. Appropriateness of potentially crediting PERA-General allowable service for less than full prior employment period.
7. Appropriateness of continuing exclusion for other Minnesota port authorities.

Potential Amendments

H1377-2A is a technical amendment.



TO: Members of the Legislative Commission on Pensions and Retirement
 FROM: Lawrence A. Martin, Executive Director *LAM*
 RE: H.F. 1377 (Murphy, M.); S.F. 1114 (Reinert): Seaway Port Authority of Duluth
 DATE: February 20, 2012

Summary of H.F. 1377 (Murphy, M.); S.F. 1114 (Reinert)

H.F. 1377 (Murphy, M.); S.F. 1114 (Reinert) amends Minnesota Statutes, Chapter 353, the law governing the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), by including the current and future employees of the Seaway Port Authority of Duluth in PERA-General retirement coverage and membership and by transferring to PERA-General service credit for past Seaway Port Authority of Duluth employment currently uncovered by PERA-General in proportion to the amount of assets of each in the current Seaway Port Authority of Duluth defined contribution retirement plan, their deferred compensation supplemental retirement program, any additional retirement-related funding provided by the Seaway Port Authority of Duluth, and any additional personal funding provided bears to the total actuarial liability for the benefits related to their past service under the PERA-General retirement plan, but not to exceed their total past Seaway Port Authority of Duluth employment.

Retirement Situation of the Seaway Port Authority of Duluth

The Seaway Port Authority of Duluth is a public agency as a subsidiary of the State of Minnesota and of two local governments, the City of Duluth and St. Louis County. The state's various port authorities, with the exception of the St. Paul Port Authority since 2003, are excluded from retirement coverage by PERA-General. The Seaway Port Authority of Duluth wants to change that situation and gain PERA-General retirement coverage for its ten current employees and for all future employees, including some or all prior port authority employment by current employees.

Background Information on the Seaway Port Authority of Duluth

- A. Seaway Port Authority of Duluth. Background information on the Seaway Port Authority of Duluth is contained in **Attachment A**.
- B. PERA-General Inclusions and Exclusions. Background information on the inclusions and exclusions in the membership of PERA-General is contained in **Attachment B**.
- C. Rule of 90 Early Normal Retirement Age Provisions. Background information on the current normal retirement provisions of Minnesota general employee retirement plans, including the Rule of 90, is contained in **Attachment C**.

Discussion and Analysis

H.F. 1377 (Murphy, M.); S.F. 1114 (Reinert) reverses the longstanding exclusion from PERA-General with respect to the Seaway Port Authority of Duluth and transfers all ten current Seaway Port Authority of Duluth employees to PERA-General, including that portion of past service with the port authority that can be funded from the person's account balance with the port authority's defined contribution retirement plan, the person's deferred compensation program account balance, any supplemental funding provided by the port authority, and any personal resources expended by the affected current employees for this purpose.

The proposed legislation raises a number of pension and related public policy issues that the Commission may wish to consider and discuss, including the following:

1. Appropriateness of Including Previously Excluded Public Sector Employees in PERA-General. The policy issue is the appropriateness of including employees of the Seaway Port Authority of Duluth, currently excluded from plan membership, in the retirement coverage in PERA-General. The Seaway Port Authority of Duluth has been excluded from PERA-General since 1959. In 1959 (Laws 1959, Ch. 447, Sec. 3, and Ch. 633, Sec. 1-2), port authority employees were included in the federal Old Age, Survivors, and Disability Insurance Program, more commonly known as Social Security, amending a 1955 law (Laws 1955, Ch. 684) initially enacted for municipal housing and redevelopment authority employees. Also in 1959 (Laws 1959, Ch. 650, Sec. 2), seaway port authorities were excluded from PERA-General retirement plan coverage. In 1961 (Laws 1961, Ch. 746, Sec. 1-2), the 1959 seaway port authority PERA-General exclusion was broadened to include all port authorities, with a legislative intent section that indicated that the exclusion in 1959 was

intended to be all port authorities and the inclusion of only seaway port authorities was inadvertent. Social security coverage was not extended to public employees covered by PERA-General until 1963 (Laws 1963, Ch. 793, Sec. 1-11) for public hospital employees and, after much controversy and even state court litigation, until 1967 (Laws 1967, Ch. 687, Sec. 10-21) for other PERA-General covered employment positions. While the Commission office does not have records contemporaneous with the 1959-1961 exemption of port authority employees from PERA-General, it is likely that the 1959-1961 PERA-General exclusion was a function of the presence of Social Security coverage for port authority employees in 1959 and the nature of PERA-General in 1959 as a basic program, without any accommodation for Social Security coverage, and not any other apparent pension policy consideration specific to the Seaway Port Authority of Duluth. As such, unless there is testimony from some other party to the contrary, the PERA-General exclusion of the Seaway Port Authority of Duluth appears to have been principally a policy preference of the port authority and the requested reversal of that preference does not appear to raise more fundamental pension policy issues.

2. Seaway Port Authority of Duluth Status as Governmental Subdivision. The policy issue is whether or not the Seaway Port Authority of Duluth is an entity that fits within the broad parameters of the definition of "governmental subdivision" in PERA-General law, Minnesota Statutes, Section 353.01, Subdivision 6, Paragraph (a). That definition includes departments, units, or instrumentalities of state or local government or any public bodies established under state or local authority that has a government purpose and is under public control, employs and pays employee salaries, and receives a major portion of revenues from taxation, fees, assessments, or other public sources. The Seaway Port Authority of Duluth is created under state law, is either an instrumentality of the State of Minnesota, St. Louis County, and the City of Duluth or is a public body established under state law, is under the control of a board that is publicly appointed, is a regular employer, and receives most of its revenues from property taxes, governmental grants, and fees or assessments from port users. The Seaway Port Authority of Duluth is broadly analogous to the Metropolitan Airports Commission, the various economic development authorities, and the St. Paul River Centre Convention and Visitors Authority, which are all current governmental subdivisions covered by PERA-General.
3. Actuarial Impact of the Service Credit and Asset Transfer on PERA-General. The policy issue is the current actuarial condition of PERA-General and the impact on PERA-General's actuarial condition that the Seaway Port Authority of Duluth employee service credit transfer and asset transfer will have. As of July 1, 2011, the actuarial condition of PERA-General was as follows:

	Using Actuarial Value of Assets		Using Market Value of Assets	
<u>Membership</u>				
Active Members		139,952		139,952
Service Retirees		62,198		62,198
Disabilitants		2,334		2,334
Survivors		7,289		7,289
Deferred Retirees		45,325		45,325
Nonvested Former Members		109,630		109,630
Total Membership		366,728		366,728
<u>Funded Status</u>				
Accrued Liability		\$17,898,849,000		\$17,898,849,000
Current Assets		<u>\$13,455,753,000</u>		<u>\$13,616,622,000</u>
Unfunded Accrued Liability		\$4,443,096,000		\$4,282,227,000
Funding Ratio	75.18%		76.08%	
<u>Financing Requirements</u>				
Covered Payroll		\$5,183,629,000		\$5,183,629,000
Benefits Payable		\$950,708,000		\$950,708,000
Normal Cost	6.65%	\$344,925,000	6.65%	\$344,925,000
Administrative Expenses	<u>0.19%</u>	<u>\$9,849,000</u>	<u>0.19%</u>	<u>\$9,849,000</u>
Normal Cost & Expense	6.84%	\$354,774,000	6.84%	\$354,774,000
Normal Cost & Expense	6.84%	\$354,774,000	6.84%	\$354,774,000
Amortization	<u>6.63%</u>	<u>\$343,675,000</u>	<u>6.39%</u>	<u>\$331,231,728</u>
Total Requirements	13.47%	\$698,449,000	13.23%	\$686,005,728
Employee Contributions	6.25%	\$323,996,000	6.25%	\$323,996,000
Employer Contributions	7.25%	\$375,846,000	7.25%	\$375,846,000
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%	\$699,842,000	13.50%	\$699,842,000
Total Requirements	13.47%	\$698,449,000	13.23%	\$686,005,728
Total Contributions	<u>13.50%</u>	<u>\$699,842,000</u>	<u>13.50%</u>	<u>\$699,842,000</u>
Deficiency (Surplus)	(0.03%)	(\$1,393,000)	(0.27%)	(\$13,836,272)

The Seaway Port Authority of Duluth had PERA calculate the actuarial accrued liability associated with the service credit transfer payment requirement of all prior Seaway Port Authority of Duluth employment to PERA-General. The proposed legislation requires that any transferred service credit be fully funded (i.e., assets equal to the actuarial accrued liability also transferred), so the prior service credit transfer will provide an actuarial gain for PERA-General. To the extent that the Seaway Port Authority of Duluth employees vary from the average PERA-General employee, the transfer of retirement coverage will have some slight impact on the future PERA-General normal cost. The average PERA-General plan member is age 47.2, has 11 years of allowable service credit, and has an average annual salary of \$36,761.

The following summarizes the PERA calculation of the full actuarial value service credit transfer payment requirement and the impact of a full past service credit transfer on PERA-General as of December 31, 2011:

Using Actuarial Value of Assets						
	Current Actuarial Condition of PERA-General		Addition of Seaway Port Authority of Duluth Employees		Resulting Actuarial Condition of PERA General	
<u>Membership</u>						
Active Members		139,952		10		139,962
Service Retirees		62,198		--		62,198
Disabilitants		2,334		--		2,334
Survivors		7,289		--		7,289
Deferred Retirees		45,325		--		45,325
Nonvested Former Mem.		<u>109,630</u>		=		<u>109,630</u>
Total Membership		366,728		10		366,738
<u>Funded Status</u>						
Accrued Liability		\$17,898,849,000		\$1,585,157		\$17,900,434,157
Current Assets		<u>\$13,455,753,000</u>		<u>\$1,585,157</u>		<u>\$13,457,338,157</u>
Unfunded Accrued Liability		\$4,443,096,000		--		\$4,443,096,000
Funding Ratio	75.18%		100.00%		75.18%	
<u>Financing Requirements</u>						
Covered Payroll		\$5,183,629,000		\$422,012		\$5,184,051,012
Benefits Payable		\$950,708,000		--		\$950,708,000
Normal Cost	6.65%	\$344,925,000		\$28,064	6.65%	\$344,953,064
Administrative Expenses	<u>0.19%</u>	<u>\$9,849,000</u>		<u>\$1,823</u>	<u>0.19%</u>	<u>\$9,850,823</u>
Normal Cost & Expense	6.84%	\$354,774,000		\$29,887	6.84%	\$354,803,887
Normal Cost & Expense	6.84%	\$354,774,000		\$29,887	6.84%	\$354,803,887
Amortization	<u>6.63%</u>	<u>\$343,675,000</u>		<u>\$26,958</u>	<u>6.63%</u>	<u>\$343,701,958</u>
Total Requirements	13.47%	\$698,449,000		\$56,845	13.47%	\$698,505,845
Employee Contributions	6.25%	\$323,996,000		\$26,376	6.25%	\$324,022,376
Employer Contributions	<u>7.25%</u>	<u>\$375,846,000</u>		<u>\$30,596</u>	<u>7.25%</u>	<u>\$375,876,596</u>
Total Contributions	13.50%	\$699,842,000		\$56,972	13.50%	\$699,898,972
Total Requirements	13.47%	\$698,449,000		\$56,845	13.47%	\$698,505,845
Total Contributions	<u>13.50%</u>	<u>\$699,842,000</u>		<u>\$56,972</u>	<u>13.50%</u>	<u>\$699,898,972</u>
Deficiency (Surplus)	(0.03%)	(\$1,393,000)		(\$127)	(0.03%)	(\$1,393,127)

4. Appropriateness of the Approval of the Shift of Public Employees from Defined Contribution Retirement Plan Coverage to Defined Benefit Retirement Plan Coverage. The policy issue is the appropriateness of a request for legislative approval of a shift in retirement coverage from defined contribution plan coverage to defined benefit plan coverage. The Seaway Port Authority of Duluth currently provides retirement coverage on a defined contribution federal Internal Revenue Code Section 401(a) retirement plan to supplement Social Security coverage and also avails its employees of deferred compensation plan participation, which is also a defined contribution plan-type retirement savings program. Although Minnesota has several defined contribution public employee retirement plans, most Minnesota public employees are covered by defined benefit retirement plans. A principal difference between defined benefit retirement plans and defined contribution retirement plans is who bears the financial risk of future investment performance. The private sector has largely abandoned defined benefit retirement plans and extensively utilizes defined contribution retirement plans. Defined contribution retirement plans are viewed favorably by younger aged employees and are beneficial for employees who change careers or change employers frequently while defined benefit retirement plans are preferred by employees who have rendered long-term employment for the same employer or expect to do so. The trend toward defined contribution retirement plans being established instead of, or to replace, defined benefit retirement plans in the private sector prompted the Legislature, in 2010 (Laws 2010, Ch. 359, Art. 1, Sec. 86), to require the major retirement plan administrations to conduct a study of alternative retirement plans for Minnesota public employees, including defined contribution plans, to be filed with the Legislative Commission on Pensions and Retirement. The Legislative Commission on Pensions and Retirement and the Legislature has reviewed the report and has begun the consideration of potential hybrid retirement plans as a result.

5. Appropriateness of Excluding Service Credit Transfer PERA-General Members from Rule of 90 Eligibility. The policy issue is the appropriateness of excluding from eligibility for early normal retirement under the PERA-General Rule of 90 benefit tier those Seaway Port Authority of Duluth employees who are seeking to transfer to PERA-General service credit that covers employment prior to July 1, 1989, the cutoff date for the Rule of 90. The Commission in the past has shown considerable reluctance in allowing service credit purchase special legislation or similar service credit transfer special legislation to obtain Rule of 90 eligibility with that service credit acquisition, in part because permitting the purchase of Rule of 90 eligibility will spur additional requests and demands for special service credit purchase and transfer legislation. In 1989, when the Legislature authorized the Rule of 90 early normal retirement for the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Teachers Retirement Association (TRA), and the first class city teacher retirement fund association coordinated programs and limited the Rule of 90 early normal retirement for PERA-General, eligibility for the Rule of 90 included only Minnesota public employees who first became Minnesota public employees before July 1, 1989. The Rule of 90 eligibility exclusion in the proposed legislation reportedly affects two or three Seaway Port Authority of Duluth employees, thus requiring them to continue in employment to age 66 in order to receive an unreduced retirement annuity or to retire with a reduced retirement annuity between age 58 and age 66. The proposed Rule of 90 eligibility exclusion reduced the total actuarial accrued liability for the proposed Seaway Port Authority of Duluth service credit transfer from what it would have been if the service credit transfer made the two employees Rule of 90 eligible.

6. Appropriateness of Potentially Crediting PERA-General Allowable Service for Less than the Full Prior Employment Period. The policy issue is the appropriateness of limiting the acquisition of PERA-General allowable service credit for the transferring Seaway Port Authority of Duluth employees to that portion of their prior port authority employment career that has the same actuarial value as the person's account balance in the Seaway Port Authority of Duluth defined contribution retirement plan, the person's account balance with a deferred compensation plan, the person's share of any transfer incentive money supplied by the Seaway Port Authority of Duluth, and any additional assets the person allocates for this purpose. The Seaway Port Authority of Duluth reportedly is planning to provide some additional money to assist employees in making the service credit transfers, but the amount of that additional money in total or for any particular person is not clear. Some or all Seaway Port Authority of Duluth employees may, in the end, receive less PERA-General allowable service credit than their actual Seaway Port Authority of Duluth employment period. While the situation has a precedent (see Laws 1977, Chapter 61, relating to the partial consolidation of the Eveleth Police and Fire Relief Association into the Public Employees Police and Fire Retirement Plan), the Eveleth experience also indicates a potential pitfall of the partial PERA-General service credit arrangement, because members with only partial service credit for their full public career at retirement will feel deprived of something of value and may seek a legislative remedy that could come at the expense of the retirement plan or of the employing until long after the issue was addressed.

7. Appropriateness of Continuing Exclusion for Other Minnesota Port Authorities. The policy issue is the appropriateness of including the Seaway Port Authority of Duluth in retirement coverage by PERA-General while not addressing the situation of the other 25 port authorities that remain excluded from PERA-General coverage. In 2003, the St. Paul Port Authority was included in PERA-General retirement coverage. The Seaway Port Authority of Duluth is pursuing this potential special legislation. The Red Wing Port Authority reportedly has been unaware of the PERA-General coverage exclusion, has been reporting its employees to PERA since the authority's inception, and may be seeking special legislation to continue PERA-General coverage. Based on information gathered from Minnesota Statutes, Sections 469.069 to 469.089, the 25 additional port authorities that exist and are excluded from PERA-General retirement coverage other than the Seaway Port Authority of Duluth are:

Albert Lea	Granite Falls	Red Wing	Wadena
Austin	Hastings	Redwood Falls	Warroad
Bloomington	Koochiching County	Rosemount	White Bear Lake
Breckinridge	Minneapolis	Roseville	Winona
Cannon Falls	North Mankato	St. Cloud	
Detroit Lakes	Ortonville	South St. Paul	
Fergus Falls	Plymouth	Wabasha	

Adding employing units one by one, at their election, is not a very efficient process from a legislative standpoint. If there is no overarching policy reason for excluding port authorities from PERA-General coverage, but when there could be employment interchanges with other PERA-General covered employing units, it may be more appropriate to include all port authorities in future PERA-General retirement coverage at large rather than the Seaway Port Authority of Duluth and to permit past service credit transfers on a full actuarial value basis in the same manner as proposed by the Seaway Port Authority of Duluth. Reaction from port authority representatives may be appropriate before undertaking any broadening the potential proposed pension legislation.

Background Information on the Seaway Port Authority of Duluth

1. **Creation.** The Seaway Port Authority of Duluth is a public agency created by state statute in 1955 to expand and improve facilities at the Port of Duluth-Superior in anticipation of the opening of the St. Lawrence Seaway in 1959. In 1957, with \$10 million in public funding, the Port Authority created the 120-acre Clure Public Marine Terminal, which is the port's only general cargo facility. The Seaway Port Authority of Duluth operates under Minnesota Statutes, Sections 469.048 through 469.068 and 469.074.
2. **Board of Directors.** The members of the board of directors of the Seaway Port Authority of Duluth are:
 - Bill Kron, a retired St. Louis County Commissioner (St. Louis County Board appointee);
 - Steve Raukar, a St. Louis County Commissioner (St. Louis County Board appointee);
 - Cal Larson, a retired Minnesota State Senator (Minnesota Governor appointee);
 - Ray Klosowski, the retired Duluth Airport Authority executive director (Duluth City Council appointee);
 - Lowell Hellervik, the board chair and chief executive officer of PDI Personnel Decisions International in Minneapolis (Minnesota Governor appointee);
 - Norm Voorhees, a market development representative for the Iron Workers Union Local 512 (Duluth City Council appointee); and
 - Rick Revoir, an assistant professor in the School of Business & Technology at the College of St. Scholastica (Duluth City Council appointee).
3. **Facilities.** The port of Duluth-Superior is the largest tonnage port on the Great Lakes and ranks among the top 20 ports in the United States, handling an average of 46 million short tons of cargo and hosting more than 1,100 vessel visits each year. The Seaway Port Authority of Duluth owns and manages multiple waterfront properties, including the Clure Public Marine Terminal, the Garfield Docks C & D, the Erie Pier, and an industrial park near the Duluth International Airport.
4. **Authority Functions.** The Seaway Port Authority of Duluth undertakes five functions, which are:
 - **Administration.** The Authority oversees all departments and monitors all enterprise operations within the Port District. Revenue consists principally of rental revenues. Substantially all property and equipment is leased to others.
 - **Port Promotion.** The Authority promotes the use of the Port of Duluth on a local, regional, national and global basis; responds to the needs of both the users of the Port and the providers of services within the Port; and encourages shippers to use the public marine terminal.
 - **Port Development.** The Authority oversees owned property and facilities and assists with development of the private and public enterprise operations within the Port District.
 - **Marine Terminal.** The Authority owns maritime facilities that are operated by a private company under an operating agreement.
 - **Tax Increment Financing District.** The Authority administered Rice's Point Industrial Development District, which was a tax increment financing district organized under Minnesota law and which was decertified in 2008.
5. **Annual Revenue and Expenses.** Operating revenue for the Seaway Port Authority of Duluth is generated through land leases, storage and dockage fees, economic development investments and related financing activities. Additional funding is provided by grants from the state's Port Development Assistance Program, the City of Duluth tax levy, and project specific federal grants. The authority had revenues of \$7,008,429 in Fiscal Year 2008 (of which property taxes represented 14.11% and grants represented 15.28%), \$6,367,315 in Fiscal Year 2009 (16.12% and 2.12%, respectively), and \$4,084,861 in Fiscal Year 2010 (25.82% and 0%, respectively). It had expenditures of \$3,425,527 (of which administration represented 28.63% and depreciation represented 34.33%) in Fiscal Year 2008, \$3,634,976 in Fiscal Year 2009 (30.10 % and 33.06%, respectively), and \$3,746,334 in Fiscal Year 2010 (29.62% and 31.05%, respectively). The authority had net assets of \$32,984,646 in Fiscal Year 2008, \$35,716,985 in Fiscal Year 2009, and \$36,055,512 in Fiscal Year 2010.
6. **Authority Employees.** The Seaway Port Authority of Duluth employs ten persons, an executive director; a chief financial officer, an industrial/economic development director, a trade development director; a facilities manager, a public relations manager, an executive assistant, a secretary, an accountant; and an accounting technician. The loading and unloading activities for cargos routed through the Port of Duluth-Superior are handled through a contractor that is retained by the authority and are not directly employed by the authority.
7. **Current Staff Retirement Coverage.** The Seaway Port Authority of Duluth is excluded from the definition of "government subdivision" for purposes of retirement coverage by the General Employees Retirement Plan of the Public Employees Retirement Association under Minnesota Statutes, Section 353.01, Subdivision 6, Paragraph (c). Authority employees are currently covered by a federal Internal Revenue Code Section 401(a) defined contribution plan administered by a third-party vendor.

Background Information on PERA-General Retirement Plan Membership Inclusions and Exclusions

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

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

2. Current Optional Memberships. Optional PERA-General membership by action of the individual are employees of public sector labor organizations, persons in elected or appointed positions other than local governing body positions, PERA-General members appointed by the governor as a state department head who decline coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), city managers, and pre-2003 St. Paul Port Authority employees who were over age 44 in 2003. Optional PERA-General membership by action of the employing entity are employees of the Minnesota Association of Townships, county historical societies, or Hennepin Healthcare Systems, Inc. employees.

3. Current Membership Exclusions. Exclusions from PERA-General membership are persons with salary from a governmental subdivision that never exceeds \$425 in any month, public officers on the governing body of a governmental subdivision, election judges and officers, patient or inmate personnel, temporary employees, fire, flood, storm, or disaster emergency employees of a governmental subdivision, persons required by law to be a member of another Minnesota retirement plan by virtue of their governmental subdivision employment, religion order members, employees under age 23 who are full-time students, physician residents, medical interns, and pharmacy residents, part-time technical college instructors with a part-time adult supplementary technical college license, foreign citizens with short-term work permits or visas, public hospital employees electing not to participate before 1972 and in 1988, volunteer ambulance personnel, volunteer firefighters, various local government trades personnel, seasonal employees, supported employment employees, work study employees, independent contractors and their employees, reemployed annuitants, and governmental subdivision board or commission members.

4. Historical Development of PERA-General Inclusions and Exclusions.

- In 1931 (Laws 1931, Ch. 307, Sec. 1-2), when the Public Employees Retirement Association (PERA) was established, the term “public employee” was defined as any person holding an elective or appointive position as an employee or officer of a county, as an employee or officer of any city of the first class, city of the second class, or city of the third class, whether governed by home rule charter or otherwise, as an employee or officer of any village with a population of more than 7,000, or public school employee or officer with a salary paid from taxation or from public revenues. The term excluded temporary employees and employees with an average period of employment under six months, with membership optional for public employees having that status on April 24, 1931, to be elected before July 1, 1933, and with membership mandatory for public employees accepting public employment after April 23, 1931.
- In 1933 (Laws 1933, Ch. 374, Sec. 1-2), the definition of the term “public employee” was revised to apply to any person who holds a position by election, appointment, or contract with a county, a city, a village, or a school district if the salary is paid in whole or in part through taxation, fees, assessments, or governmental subdivision revenue. The term was defined to also mean a person appointed as a district court reporter, but was indicated that it did not include persons by employment were required to contribute to another retirement fund established under law and did not include temporary employees. The definition of “public employee” was extended to include any incorporated city and any incorporated village with a population of more than 5,000. The definition distinguished between “present public employees” (a public employee who was receiving salary from a governmental subdivision which accepted coverage by PERA on the date of that acceptance) and “new public employees” (a public employee who entered public employment by a governmental subdivision which accepted PERA coverage after the date of that

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

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

- In 1957 (Laws 1957, Ch. 815, Sec. 1; and Ch. 935, Sec. 1, 6), the plan membership provisions were amended to include in coverage the chief clerk of the Minnesota House of Representatives, the Secretary of the Minnesota Senate, and any employee of the League of Minnesota Municipalities. Plan membership provisions were amended to add or clarify exceptions from coverage, set as:
 - persons rendering professional duties and compensation is on a per diem basis;
 - election officers;
 - persons who are employed by contractors under an authorized contract;
 - patient and inmate help rendered to governmental unit;
 - members of boards, commissions, volunteer fire departments, bands, and others employed in intermittent governmental subdivision service and paid on a per diem or for-free basis;
 - temporary, emergency, and seasonal employees as defined by PERA board rule; and
 - public employees required to contribute by virtue of employment to another Minnesota public retirement plan.

Plan membership provisions were amended to also exclude:

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

- In 1969 (Laws 1969, Ch. 940, Sec. 1), the inclusion in PERA membership of persons employed by probate judges was eliminated, and a grammatical error relating to the exclusion of election officers was corrected. The exclusion of public employees covered by another public retirement fund by virtue of their public employment was modified to not apply to volunteer fire relief association members if the relief association does not determine benefits or contributions based on a firefighter's compensation or salary, and the religious organization exemption was modified with respect to the required annuity or benefit waiver.
- In 1971 (Laws 1971, Ch. 106, Sec. 1, 39; and Ch. 503, Sec. 1), the inclusion in PERA membership of the secretary of the Minnesota Senate and the chief clerk of the Minnesota House of Representatives was eliminated, and the inclusion in PERA coverage of Minnesota legislators was limited to persons first elected before December 31, 1969. The broad exclusion from PERA coverage of volunteer fire department members was eliminated, and the exclusion from PERA membership of temporary or seasonal employees was modified as to its continuation from more than 90 working days to 120 working days. The exclusion from PERA coverage of persons with other retirement plan coverage was modified to not apply where legislation specifically authorized supplemental plan coverage, and the exclusion from PERA membership was modified with respect to medical interns and resident physicians to apply only if they are full-time graduate degree candidates.
- In 1973 (Laws 1973, Ch. 753, Sec. 3-5, 79), the PERA membership inclusion was modified to eliminate employees of elected or appointed officers or municipal judges and to eliminate state legislators.

Specific PERA membership inclusions were added, indicated as:

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

Fifteen specific PERA membership exclusions were added, indicated as:

- persons employed for their regular professional duties,
 - election officers,
 - independent contractors,
 - patient and inmate help in charitable, penal, and correctional institutions,
 - boards, commissions, and band with intermittent service,
 - temporary or seasonal employees up to 120 working days annually and earning less than \$75 per month,
 - part-time employees with monthly compensation under \$75 or annual compensation stipulated under \$900 annually,
 - post-February 1, 1969, elected officials with compensation under \$75 per month,
 - emergency fire, flood, storm, or disaster employees,
 - persons required to be a member of another primary retirement plan by virtue of their employment,
 - public matrons,
 - persons applying for exemption based on religious organization membership,
 - students who are occasional part-time employees and full-time students,
 - resident physicians, medical interns, and pharmacist interns, and
 - appointed or elected officers paid on a fee basis who were not members on June 30, 1971.
- In 1974 (Laws 1974, Ch. 229, Sec. 1), the earnings threshold for membership for temporary employees, seasonal employees, part-time employees, and elected officials was increased from \$75 per month to \$150 per month (or \$1,800 annually if stipulated for part-time employees).
 - In 1976 (Laws 1976, Ch. 329, Sec. 12), the religious organization exemption from PERA membership was amended to require the religious organization to confirm that public retirement membership is forbidden by its religious beliefs, customs, or rites. The student exemption from PERA membership was amended to make it inapplicable to full-time public employees for all applicable personnel effective July 1, 1976.
 - In 1977 (Laws 1977, Ch. 347, Sec. 52; and Ch. 429, Sec. 19-20), the name for the League of Minnesota Cities was corrected and employees of the Association of Minnesota Counties, the Metropolitan Inter-County Council, and the Minnesota Municipal Utilities Association were added

to the PERA membership inclusion provision. The temporary, seasonal, and part-time employee minimum salary threshold for inclusion in PERA coverage was increased from \$150 per month to \$250 per month (or from \$1,800 to \$3,000 if stipulated in advance for part-time employees). The religious organization exclusion from PERA membership was replaced by an exclusion for chaplains and nuns taking a vow of poverty as a religious order member, and the occasionally employed part-time exclusion from PERA membership for students was eliminated.

- In 1978 (Laws 1978, Ch. 471, Sec. 1; Ch. 720, Sec. 6; and Ch. 796, Sec. 23), the PERA membership exclusion provision was modified by:
 - increasing the salary threshold figure from \$150 per month to \$250 per month for elected officials after March 1, 1978,
 - adding an exclusion for participants in the federal Comprehensive Employment and Training Act,
 - clarifying that the other pension plan coverage exclusion applied only if the other plan coverage was coincidental with the potential PERA membership, and
 - excluding from PERA membership town, city, or county assessors if their salary or compensation from any one employer did not exceed \$250 per month or if the employment contract sets the total compensation in advance and specifies in advance that the service will not exceed three months in duration.
- In 1979 (Laws 1979, Ch. 216, Sec. 1; and Ch. 303, Art. 6, Sec. 5), the PERA membership inclusion provision was expanded to include post-1979 Minneapolis city officers and employees, post-1979 Metropolitan Airports Commission employees, post-1979 Minneapolis Employees Retirement Fund employees, and post-1979 Special School District No. 1 employees, and the PERA membership exclusion provision was modified by clarifying that the part-time employee exclusion does not apply to firefighters, by excluding volunteer firefighters who are stipulated in advance and who do not receive compensation greater than \$3,000 annually, by clarifying that the full-time student exclusion does not apply to full-time employees of governmental subdivisions, and by removing an obsolete effective date.
- In 1980 (Laws 1980, Ch. 609, Art. 5, Sec. 20), the PERA membership exclusion provision was expanded by adding persons with part-time adult supplementary vocational-technical school licenses rendering incidental service up to 300 hours annually, and by adding area vocational technical school instructors rendering less than six hours of teaching service per quarter.
- In 1981 (Laws 1981, Ch. 68, Sec. 15), the PERA coverage inclusion provision was expanded with the addition of Range Association of Municipalities and Schools employees and Soil and Water Conservation District employees. The PERA coverage exclusion provision was modified by an increase in the salary threshold for membership for temporary or seasonal employees, part-time employees, and elected officials from \$250 per month to \$325 per month (or from \$3,000 to \$3,900 per annum for part-time employees if stipulated in advance).
- In 1982 (Laws 1982, Ch. 404, Sec. 1, 2, 10; and Ch. 424, Sec. 115), the PERA membership inclusion provision was amended to eliminate the specific inclusions of Minneapolis city elected officials and employees and Minneapolis public schools employees, and to correct the name of the Metropolitan Inter-County Association. The PERA membership exclusion provision was amended to remove the exception of firefighters in the part-time employees with monthly compensation under \$325 exclusion and the specific volunteer firefighter exclusion. The specific definition of a volunteer firefighter was repealed.
- In 1985 (Laws 1985, Ch. 261, Sec. 3), the PERA coverage inclusion provision was expanded with the addition of a specific inclusion for employees of a county historical society.
- In 1986 (Laws 1986, Ch. 399, Art. 2, Sec. 9; Ch. 400, Sec. 9; and Ch. 458, Sec. 11; and 1st Spec. Sess. Laws 1986, Ch. 3, Art. 2, Sec. 41), the PERA membership inclusion provision was expanded to specifically include employees of economic development authorities and was amended by modifying the 1985 inclusion of county historical society employees by specifying that those employees also must be county employees.

- In 1987 (Laws 1987, Ch. 49, Sec. 9; Ch. 284, Art. 5, Sec. 1; Ch. 296, Sec. 1; and Ch. 372, Art. 1, Sec. 5), the PERA coverage inclusion provision was expanded to specifically include full-time firefighters who are employed by the Minnesota Department of Military Affairs.

The PERA coverage exclusion provision was modified by:

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

The PERA membership exclusion provision was modified by:

- reorganizing the provision into paragraphs and clauses,
 - revising the language style of the incidental service determination for professional service employees,
 - replacing the former temporary or seasonal employee exclusion with an exclusion for employment not expected to continue for more than six consecutive months,
 - increasing the threshold compensation figure for part-time employees and elected officials from \$325 per month to \$425 per month (from \$3,900 to \$5,100 annually if stipulated in advance),
 - moving to a separate paragraph the exception in the other retirement plan membership exclusion for multiple plan coverage for different service during the same time period,
 - eliminating a 1963 savings clause relating to membership option exercises, and
 - eliminating the modestly compensation town, city, or county assessor exclusion.
- In 1989 (Laws 1989, Ch. 209, Art. 2, Sec. 36; Ch. 319, Art. 3, Sec. 1-2, and Art. 5, Sec. 1; and Ch. 335, Art. 3, Sec. 5), the PERA coverage inclusion provision was expanded:
 - with the addition of Association of Metropolitan Municipalities employees and of Minnesota Association of Townships employees if the association certifies its exercise of the coverage option for all permanent employees,
 - the continuation in membership of pre-July 1, 1988, employees who met the compensation threshold based on total salary from all positions held in multiple governmental subdivisions and court employees who became state employees and elected a continuation of coverage, and
 - correcting statutory cross-references for economic development authority employees.

The PERA coverage exclusion provision was modified to:

- update without apparent substantive change the language style and usage of several provisions,
- provide an exception to the under-six-months employment exclusion for probationary periods preceding a permanent position, and by repositioning procedures applicable to employees who continue beyond six months or hold concurrent part-time positions and earn more than \$425 monthly,
- clarify the other retirement plan membership exclusion based on the plan administrative system,
- to except from the other retirement plan exclusion concurrent membership based on different employment occurring at the same time,
- add exclusions for pharmacist residents serving in a degree or residency program and for students serving in an internship or residency sponsored by an accredited educational institution,
- simplify the part-time adult supplementary technical institute license exemption,
- exclude volunteer ambulance service personnel unless they render compensated service other than as ambulance personnel,
- exclude volunteer firefighters unless they render compensated service other than service covered by the volunteer fire relief association, and
- exclude Minneapolis Community Development Agency employees.

- In 1990 (Laws 1990, Ch. 570, Art. 11, Sec. 1), the PERA coverage exclusion provision was modified to exempt from the board and commission member exclusion individuals where membership was a result of public employment by the same employer. The under-six-consecutive-month employment exclusion was revised to clarify that the person must be hired for a position of less than six months in duration and to except from the exclusion employees hired to an unlimited period employment position with a probationary period. The exclusion provision was modified to revise the part time under the threshold salary exclusion as applicable to any employment under \$425 per month (or \$5,100 annually stipulated in advance).
- In 1991 (Laws 1991, Ch. 341, Sec. 1), the PERA membership exclusion for members of religious orders was modified with the inclusion of a statutory cross-reference for a Social Security coverage election option.
- In 1992 (Laws 1992, Ch. 432, Art. 2, Sec. 2), the PERA coverage exclusion provision was amended to make various apparently non-substantive language style and usage modifications.
- In 1993 (Laws 1993, Ch. 307, Art. 4, Sec. 1-3, 5-6, 11), the general definition of “public employee” was modified to specify that independent contractors and their employees are not eligible for PERA coverage. The PERA membership inclusion provision:
 - was reconfigured and revised to specify that exceeding the \$425 per month salary threshold in any month requires membership in the association for all subsequent months,
 - clarified the inclusion of employees in concurrent non-temporary positions with one governmental subdivision that exceeds the salary threshold,
 - clarified that the elected official inclusion applies to officials elected by the public at large or appointed to fill an elective office vacancy who elected to be a member and who met the salary threshold,
 - added governor-appointed state department heads who elected not to be covered by MSRS, and
 - eliminated a number of specific former inclusions for employing units included in the definition of the term “governmental subdivision.”

The PERA membership exclusion provision was revised by:

- adding elected public officers who did not elect PERA coverage, replacing the prior membership election procedure contained in the definition of the term “member,”
 - eliminating the exclusion of professional service personnel,
 - eliminating the board and commission intermittent service exclusion,
 - adding an exclusion for non-temporary employees who resign that position and accept a temporary position within 30 days in the same governmental subdivision,
 - eliminating the exclusion for certain police matrons,
 - eliminating the exclusion of fee-basis paid officers,
 - eliminating the exclusion for technical college instructors with teaching license exemptions for teaching less than 61 hours per year,
 - eliminating the exclusion for Minneapolis Community Development Agency,
 - adding an exclusion for foreign citizens working under a short-term work permit or visa, and
 - adding exclusion for public hospital employees who failed to elect PERA coverage before 1972 and again in 1988.
- In 1994 (Laws 1994, Ch. 572, Sec. 5), the PERA coverage inclusion provision was expanded to include former area vocational technical college employees who became MnSCU employees and elected to retain PERA membership.
 - In 1997 (Laws 1997, Ch. 241, Art. 2, Sec. 1), the PERA membership exclusion provision was amended to clarify that it applied to both PERA-General and PERA-P&F and to exclude St. Paul public school pipefitters and associated trades personnel hired after May 1, 1997, or who elected exclusion if employed before May 2, 1997.
 - In 1998 (Laws 1998, Ch. 254, Art. 1, Sec. 87), the 1994 inclusion of former area vocational technical college employees in MnSCU employment who elected to retain PERA membership by statutory cross-reference was eliminated following the 1995 repeal of the cited statute in a Revisor’s bill.
 - In 1999 (Laws 1999, Ch. 222, Art. 4, Sec. 4), the local police and fire relief association membership exclusion from PERA coverage was modified to accommodate the former police and fire consolidation account members who were covered by the consolidation account merger into PERA-P&F.

- In 2000 (Laws 2000, Ch. 461, Art. 3, Sec. 7; and Art. 7, Sec. 1), the general definition of the term “public employee” was modified with the addition that reemployed annuitants are not included in coverage by virtue of the reemployment and the PERA membership exclusion provision was expanded with the exclusion of various electrical workers, plumbers, carpenters, and associated trades personnel employed by the St. Paul School District or the City of St. Paul employed after May 1, 2000, or who elect to be excluded if employed before May 2, 2000.
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 10, Art. 10, Sec. 1-2; and Art. 11, Sec. 2-5), the general definition of the term “public employee” was revised to include an optional membership provision and the specific exclusions of independent contractors and reemployed annuitants were removed. The PERA membership inclusion provision was expanded by adding full-time Dakota County Agricultural Society employees and was totally revised by requiring all persons meeting the general definition of “public employee” to be a member of the applicable PERA-administered retirement plan as a condition of employment from the first day of employment unless specifically excluded, or do not exercise an individual option for coverage when applicable, or was employed by a governmental subdivision that did not exercise a group option for coverage when applicable and continuing all members having that status as of June 30, 2002, as members.

The PERA membership exclusions provision was revised by:

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

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

- In 2002 (Laws 2002, Ch. 392, Art. 3, Sec. 1-2), the PERA coverage inclusion provision was amended to add a \$425 per month minimum salary threshold for PERA membership. The PERA coverage exclusion provision was amended by adding an under \$425 per month salary threshold exclusion, by adding an age 23 limit on the full-time student exclusion, by excepting Hennepin County employees from the under-three-year student exclusion, and by excepting Hennepin County employees from the under-three-year work permit or visa foreign citizen exclusion.
- In 2003 (1st Spec. Sess. Laws 2003, Ch. 12, Art. 4, Sec. 1), the PERA optional membership provision was amended to add an individual option for the St. Paul Port Authority.
- In 2004 (Laws 2004, Ch. 267, Art. 1, Sec. 2), the PERA membership exclusion provision was modified to eliminate the \$425 per month salary threshold for temporary employees.
- In 2005 (Laws 2005, Ch. 10, Art. 5, Sec. 1; and Ch. 125, Art. 3, Sec. 1-2), the general definition of the term “public employee” was augmented by providing that it includes full-time Dakota County Agricultural Society. The PERA membership exclusion provision was modified to except the Hennepin Healthcare System from the under-three-year work permit or visa foreign citizen exclusions. The optional PERA membership provision was amended with respect to the group option for the Hennepin Healthcare, Inc., for employees other than paramedics, emergency medical technicians, and protection officers if the corporation establishes an alternative retirement plan.
- In 2006 (Laws 2006, Ch. 271, Art. 3, Sec. 5-6), the PERA coverage inclusion provision was amended to also include physicians employed by governmental subdivisions who did not elect coverage under the PERA Defined Contribution Plan. The PERA optional membership provision was amended to clarify the maximum age on the Port Authority of St. Paul optional membership

individual election and to clarify the conditions on the optional membership for the three group election provisions.

- In 2007 (Laws 2007, Ch. 134, Art. 1, Sec. 4; and Art. 2, Sec. 13-14), the PERA membership inclusion provision was amended to clarify that the \$425 per year minimum salary threshold applies to one or multiple public employment positions and clarifies the participation duration for pre-2002 PERA members is until incumbency ends for elected officials and until termination of public employment broadly. The PERA membership exclusion provision was amended to eliminate the pre-2002 elected official membership grandparent duration language moved to the inclusion provision and the other retirement plan coverage exclusion provision was amended to eliminate an obsolete reference to the Minneapolis Teachers Retirement Fund Association.
- In 2008 (Laws 2008, Ch. 349, Art. 5, Sec. 14), the PERA coverage exclusion provision was amended by expanding the resident physician, medical intern, and pharmacist resident and intern exception to apply to clinics as well as hospitals.
- In 2009 (Laws 2009, Ch. 169, Art. 12, Sec. 4-5), the general definition of the term “public employee” and the PERA membership inclusion provision were amended by moving the Dakota County Agricultural Society full-time employee inclusion from the general definition of the term “public employee.” The PERA membership inclusion provision was amended by moving the Dakota County Agricultural Society full-time employee inclusion from the general definition to the inclusion provision and by adding Minneapolis Firefighters Retirement Association (MFRA) and Minneapolis Police Retirement Association (MPRA) employees not otherwise excluded by law.
- In 2010 (Laws 2010, Ch. 359, Art. 5, Sec. 1-4; and Art. 11, Sec. 1-2), the general definition of the term “public employee” had a reference to “public officer” added and the language style and usage of the provision were modified in an apparent non-substantive nature. The PERA coverage inclusion provision was modified by:
 - clarification of the mandatory nature of membership for included employees and a specification of the date on which membership commences,
 - setting forth three additional specific inclusions, persons meeting the salary threshold from one or more positions in a governmental subdivision, persons performing the functions of town or city clerk or treasurer, county auditor, treasure or recorder, city manager, or emergency management director, and elected county sheriffs,
 - specifically providing that membership continues for all months of public service once the threshold is first met,
 - including pre-2003 elected officials in the 2002 PERA member grandparenting provision,
 - including MERF members in membership of the MERF Division of PERA, and
 - making various language style and usage changes.

The PERA coverage exclusion provision was modified by:

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

Background Information on the Rule of 90 Early Normal Retirement Age Provision

1. Statutory Definition of Retirement. The various Minnesota defined benefit retirement plans either do not define the term, define the term to mean the period of time after a plan member becomes entitled to an accrued retirement annuity to be paid, define the term to mean the withdrawal by a plan member from active employment, define the term to mean the period of time after the cessation of active employment, or define the term as the commencement of the payment of a retirement annuity.
2. Definition of Normal Retirement
 - a. General Definition. The “normal retirement age” is the earliest age under a retirement plan at which a retirement annuity is payable without any reduction for an early retirement.
 - b. Commission Principles of Pension Policy Normal Retirement Age Policy Provision. Principle II.C.4. of the Principles of Pension Policy of the Legislative Commission on Pensions and Retirement indicates that the normal (unreduced for early retirement) retirement ages should be set based on the employability limits of average public employees and will be different for public safety employees when compared with general employees.

Specifically, the applicable principle states:

II.C.4. Appropriate Normal Retirement Ages

The normal retirement age should be set in a reasonable relationship to the employability limits of the average public employee and should differentiate between regular public employees and protective and public safety employees.

The current set of principles, last revisited by the Commission in 1996-1996, with respect to this particular principle, largely continued the earliest statement of the principle in 1980, emphasizing normal retirement ages at usual employability limits, but without any of the 1980 age specificity.

- c. General Policy Considerations Concerning Normal Retirement Ages. The historic reason for creating and maintaining pension plans, in the private sector or the public sector, was to augment an employer's personnel and compensation system by assisting in the recruitment of new qualified employees, the retention of existing qualified employees, and the systematic out-transitioning of existing employees at the conclusion of their normally expected working careers. The pension system does this by providing retirement annuities (and frequently other casualty or ancillary benefit coverage) that are deemed adequate in view of both the employer and the employees and that are deemed affordable by the employer. This traditional pension plan purpose apparently underlies the development of public pension plans in Minnesota, although it never has clearly been articulated in law.

The systematic out-transitioning of existing employees at the conclusion of their normally expected working careers is the basis for setting normal retirement ages. The Commission's Principles of Pension Policy indicate that the normal retirement age of Minnesota public pension plans should be set in accord with the employability limits of the average public employee, and indicate that the normal retirement age generally should differentiate between general public employees and set at an earlier age for protective and public safety employees.

Age 65 has generally come to be the traditional age at which many employees are expected to retire. It is, however, unclear from a policy perspective why this age has become the regularly expected retirement age for Social Security and for many public retirement plans. Age 65 does not appear to represent an empirically determined conclusion about when most employees retire that was drawn from the experience of employees before the creation of Social Security and the significant expansion of employment-based pension coverage in the 1930s. Before the 1930s, retirement for most people appears to have been a function of a physical inability to continue in employment, at whatever age that occurred. Early employee retirement plans were frequently referred to as superannuation plans and some plans substitute the term “superannuation age” for what is referred to as the “normal retirement age” in other plans. Until recent decades, the most impoverished sector of the population was older folks and the improvement of their situation was one of the goals of President Franklin Roosevelt in proposing the Social Security System in 1934. The age 65 normal retirement age is frequently ascribed to Chancellor Otto Von Bismarck of Germany, who is reported to have set age 65 as the normal retirement age for the retirement coverage provided to the Prussian army.

Since the 1960s, in both larger corporate defined benefit pension plans and public employee pension plans, the trend clearly appears to have been to institute normal retirement ages earlier than age 65. The age 62 with 30 years of service and the Rule of 90 provisions are early normal retirement age Minnesota public pension plan provisions, where a benefit unreduced for early retirement is provided at an age before the generally applicable normal retirement age. The age 62 with 30 years of service early normal retirement age provision was added to the statewide general employee retirement plans in 1973 as the first generally applicable early normal retirement age provision. The Rule of 90 early normal retirement age provision, where a person becomes eligible for an unreduced retirement benefit when the person's age and years of credited service equal or exceed the sum of 90, was enacted for the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) in 1982 (Laws 1982, Ch. 519, Sec. 2). In 1989 (Laws 1989, Ch. 319, Art. 13), the Rule of 90 provision was extended to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Teachers Retirement Association (TRA), and the coordinated programs of the first class city teachers retirement fund associations, applicable to only pre-July 1, 1989, hires. That restriction was also made applicable to PERA-General in 1989.

In the opposite direction, based on considerations of lengthening expected life spans and of the related cost of providing benefits for ever-lengthening retirement periods, as part of 1986 Congressional amendments, Social Security has instituted a later full benefit retirement age, as follows:

Social Security	
Year of Birth	Normal Retirement Age
Before 1938	Age 65
1938	Age 65, 2 months
1939	Age 65, 4 months
1940	Age 65, 6 months
1941	Age 65, 8 months
1942	Age 65, 10 months
1943-1954	Age 66
1955	Age 66, 2 months
1956	Age 66, 4 months
1957	Age 66, 6 months
1958	Age 66, 8 months
1959	Age 66, 10 months
1960 and later	Age 67

Minnesota public pension plans currently reflect some uniformity in normal retirement ages. The following compares the normal retirement ages applicable to the various Minnesota public pension plans:

d. Summary of the Current Minnesota Defined Benefit Retirement Plan Normal Retirement Age Provisions

MSRS-General	PERA-General	TRA	First Class City Teachers Coordinated Plans
"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. [352.01, Subd. 25]	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. [353.01, Subd.37]	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. [354.05, Subd. 38]	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. [354A.011, Subd. 15a]
MSRS-Correctional	State Patrol	PERA-Correctional	PERA-P&F
"Normal retirement age" means age 55. [352.93, Subd. 1]	"Normal retirement age" means age 55. [352B.08, Subd. 2a]	"Normal retirement age" means age 55. [35E3.04, Subd. 1, 4]	"Normal retirement age" means age 55. [353.651, Subd. 1, 3]
Legislators Plan	Judges Plan		
"Normal retirement age" means age 62. [3A.01, Subd. 8]	"Normal retirement age" means the date on which a judge attains the age of 65. [490.121, Subd. 21f]		

The 1986 resetting of the Social Security full retirement benefit receipt age appears to have been motivated largely by financial concerns and by a need to reduce future benefit outlays in order to delay the date of a benefit default than by any clearly delineated empirical evidence that American workers were actually continuing working to later ages. Indeed, the literature on the topic suggests that the last 20 years have seen continuing reductions in the retirement age of many workers compared to prior generations of workers. The life expectancy of American workers, however, has been increasing throughout the 20th century, meaning that workers could delay the start of their retirement period compared to prior generations without causing any actual reduction in the duration of benefit receipt compared to earlier generations. Although the potential employability limits of general employees appear to be lengthening, it is not clear that the same phenomenon is true to some extent for public safety employees.

3. Rule of 90 Early Normal Retirement Provisions. Historically, it has been Commission policy to set an age 65 normal retirement age for general (non-public-safety) employees and an age 55 normal retirement age for public safety employees. While age 65 or age 55 normal retirement ages remain a common requirement, different normal retirement ages have been established over time. For the oldest programs of the first class city plans and local police and salaried firefighter relief associations, younger normal retirement ages have long existed before 1989, as follows:

Plan	Age or Ages
Duluth Teachers Retirement Fund Association (DTRFA) Old Law Program	Age 60
Minneapolis Teachers Retirement Fund Association (MTRFA) Basic Program	Age 60 or any age w/30 years of service
St. Paul Teachers Retirement Fund Association (SPTRFA) Basic Program	Age 60 with 25 years of service
Minneapolis Employees Retirement Fund (MERF)	Age 60 or any age w/30 years of service
Most local police or salaried firefighter relief associations	Age 50

In 1973, the Commission and the Legislature initially recognized long service as a qualification for an earlier normal retirement age for the statewide general employee pension plans, with the enactment of the age 62 with 30 years of service normal retirement age provision.

In 1982, after several sessions of considering proposed legislation to create earlier normal retirement ages, the Legislature enacted the Rule of 90 for the Public Employees Retirement Association (PERA), in lieu of the PERA age 62 with 30 years of service provision. The Rule of 90 provision allows a person to retire with an unreduced retirement annuity when the person's combined age and service total at least 90.

In 1989 (Laws 1989, Ch. 319, Art. 13), the Legislature extended this Rule of 90 early normal retirement provision to the Minnesota State Retirement System (MSRS), Teachers Retirement Association (TRA), and the three first class city teacher plans as part of a major benefit improvement. That benefit increase was added as a House of Representatives floor amendment to proposed legislation relating to teachers' salaries in Independent School District No. 709 (Duluth), without a favorable recommendation by the Legislative Commission on Pensions and Retirement. The Rule of 90 provision is part of the Tier I benefit package, which consists of an earlier retirement age, a lower benefit accrual rate for the initial ten years of service (1.0% rather than 1.5% for Tier II Coordinated Programs, and 2.0% rather than 2.5% for Tier II Basic Programs), and a subsidized early retirement reduction amount.

During the 1989 Session, several Senate members of the Legislative Commission on Pensions and Retirement supported a general benefit accrual rate increase at age 65 while several House of Representatives members of the Commission supported the Rule of 90 early normal retirement age provision. The 1989 benefit increase legislation, an amendment derived from 1989 Session S.F. 1329 (Pogemiller); H.F. 1302 (Simoneau), ultimately was enacted.

Specifically, the 1989 benefit increases related to the Rule of 90 benefit tier and the level benefit tier are as follows:

- a. Level Benefit Tier. All plan members are eligible to receive a retirement annuity using a level benefit accrual formula rate of 1.5% credit for all years of service, rather than the current 1% of each of the first ten years of service, followed by 1.5% thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that age changes over time. The normal retirement age is age 65.

- b. Rule of 90 Benefit Tier. Plan members first hired before July 1, 1989, if their age plus years of service total the sum of 90, are eligible to receive a benefit accrual formula rate of 1% for each of the first ten years of service, followed by 1.5% per year thereafter, with no early retirement reduction. If the member does not meet the Rule of 90 eligibility requirement, with a benefit accrual rate of 1% for each of the first ten years and 1.5% thereafter, the early retirement reduction rate is 3% per year.

The 1989 benefit accrual rates, including the Rule of 90 Benefit Tier, were increased in 1997 (Laws 1997, Ch. 233, Art. 1).

The argument made by the proponents for the Rule of 90 benefit tier was that the benefit program would be restricted to then current plan members (pre-July 1, 1989, hires) and that the Legislature reserved the right to eliminate the provision if its utilization exceeded 45% of eligible retirees. The Rule of 90 reporting requirement and elimination provision was repealed in 1993 (see Laws 1993, Ch. 280) at the request of the various major general employee retirement plan administrators when the Teachers Retirement Association (TRA) utilization approached the triggering level.

The 1989 Rule of 90 extension, with its restriction to pre-July 1, 1989, hires, reflects a compromise based on policy and cost considerations. Although the accrual rate for the first ten years of service is less than under a level benefit computation, the waiver of any early retirement benefit reductions that would otherwise be required tends to more than outweigh the lesser accrual rate used of the first ten years of service, creating a subsidized benefit. This subsidy of those who have sufficient age and years of service to qualify for and use the Rule of 90 adds to the plan cost, to be paid by many who will never have sufficient service to qualify for this benefit. Restricting the Rule of 90 to only those who started in covered employment before July 1, 1989, made the cost manageable under the 1989 bill. However, it has created a difference between the benefit provisions available to the pre-July 1, 1989, hires and those who came afterwards, leading to frequent requests by the more recent hires to have the Rule of 90 extended to them. So far, the Legislature has resisted those requests, for a number of reasons. One reason is that it is not viewed as an issue needing prompt attention. Individuals who started employment after 1989 either are sufficiently young that retirement is not a serious concern, or their service is rather short, leaving them far from qualifying for a Rule of 90 benefit if one were to be offered. The second consideration is cost. It would be necessary to increase the contributions to all these plans to cover the added liabilities that would be created by extending the Rule of 90. The third consideration is policy conflicts created by these early retirement provisions. An effort to extend early retirement provisions to post-1989 hires is in conflict with changes in federal retirement policy. The Social Security system has been increasing the age at which individuals can qualify for full Social Security benefits, and without those Social Security benefit checks and related Medicare coverage, most individuals who might wish to retire early from a Minnesota public plan cannot afford to do so, because of the high cost of health care. Also, given the increases in expected lifespan that has occurred and that will continue to occur, one can argue that average retirement age may need to be increased rather than decreased, to control plan cost. Fourth, given current and future labor markets, there is a need to encourage the post-World War II baby boom generation to stay in the labor force, rather than encouraging their withdrawal. The next generation is too small to fill all the positions that will become vacant. To some extent Rule of 90 provisions encourage withdrawal from the labor force. Finally, Rule of 90 provisions are inconsistent with the concepts upon which our defined benefit plans were based. These plans were intended to attract sufficient capable workers, to act as a retention tool to keep them in government employment, and to out-transition them at the end of their productive years, providing sufficient income in retirement, along with Social Security benefits and private savings, to allow the retiree to retain a reasonable standard of living. Many who retire under the Rule of 90 are not ready to leave the labor force, and thus the benefits are not used to provide retirement income. Retirement benefits paid to those who simply transition to other employment add to plan cost and may not be serving a useful public purpose.

The benefit accrual rates enacted in 1989 were increased again in 1997 (Laws 1997, Ch. 233, Art. 1). Following the enactment of the 1997 revisions, a benefit computed under the level benefit tier would use an accrual rate of 1.7% per year of service, rather than 1.5%. Benefits computed under the Rule of 90 benefit tier now use an accrual rate of 1.2% per year for each of the first ten years, and 1.7% for each year thereafter. As part of the 2006 merger of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA), the Legislature again increased accrual rates, but only for TRA and only for prospective service.

In addition to the Rule of 90, there are other benefits generally found in these general employee plans which apply only to the pre-July 1, 1989, hires. These include an age 65 normal retirement age, rather than age 66. The lower age 65 normal retirement age will lessen the amount of a reduction due to early retirement compared to use of age 66, and will allow individuals to retire with full benefits a year earlier. Another is a 30-year provision, which allows individuals with 30 years of service credit to retire prior to normal retirement age with a reduction applied only to age 62 rather than age 65, creating a larger benefit. A third provision applicable only to the pre-July 1, 1989, hire group is an early retirement benefit computed using the Rule of 90 tiers described above with a 3% per year reduction due to early retirement.

4. 1989 Benefit Increase Legislation.

- a. Summary of the 1989 Benefit Increase Legislation. In 1989 (Laws 1989, Ch. 319, Art. 13), the Legislature enacted a controversial omnibus retirement bill that included a major benefit increase.

The 1989 benefit increase legislation included the following:

- i. Reduction in Vesting Requirement. The vesting period was reduced from five years to three years. Normal retirement, early retirement, disability, portability, and survivor benefit provisions were changed to three-year service eligibility rather than five-year.
- ii. Increased Interest on Refunds. Interest on refunds of member contributions taken when an individual leaves employment was increased to 6% from 5%.
- iii. Increase in Deferred Annuity Augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at 3% per year during the deferral period. Under the 1999 law, deferred annuities augmentation increases to 5% on January 1 of the year after the member reaches age 55.
- iv. Automatic Bounce-Back, Joint and Survivor Annuity. The 1999 law provided a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the former employee's annuity automatically bounces back to the single life annuity level.
- v. New Level Benefit Formula, Post-1989 Employees. Post-June 30, 1989, employees will receive a level formula of 1.5% credit for all years of service, rather than the current 1% for each of the first ten years of service, followed by 1.5% thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that age changes over time. The normal retirement age for existing employees remains at age 65.
- vi. Current Benefit Formula with 3% Early Retirement Reduction. The benefit accrual rate was set at 1% for each of the first ten years, plus 1.5% for each year thereafter, with a 3% annual reduction for early retirement, or
- vii. Level Benefit Formula with Actuarial Reduction. The benefit accrual rate was set at 1.5% for all years of service, with an actuarial reduction for early retirement, or
- viii. Rule of 90 with Current Benefit Formula Rates. If age plus years of service equal at least 90, the benefit accrual was set at 1% for each of the first ten years of service, followed by 1.5% per year thereafter, with no early retirement reduction. Use of the Rule of 90 must be reviewed periodically. If use exceeds 45% of the members eligible to retire under that provision, the provision is voided.
- ix. Contribution Rate Increases. The employee contribution rate for members was increased.
- x. Interest Assumption Increases. The pre-retirement interest rate assumption was increased to 8.5% for the following retirement plans: the Legislators Retirement, MSRS-General, MSRS-Military Affairs, MSRS-Transportation Department Pilots, MSRS-Correctional, MSRS-State Troopers, the Elective State Officers Plan, PERA, PERA-P&F, PERA-Correctional, TRA, and the Judges Retirement Plan. For the Minneapolis, St. Paul, and Duluth teacher funds, the pre- and post-retirement interest assumption was increased to 8.5%.
- xi. Amortization Date Extended. For the retirement plans listed in point x, the amortization target period was extended to the year 2020.

2. Legislative Process in Enacting the 1989 Benefit Increase Legislation. The 1989 benefit increase legislation was reviewed as a proposal by the Legislative Commission on Pensions and Retirement, but was not recommended by the Commission because of personal disagreements on the Commission that limited its function. The 1989 legislation built on Commission hearings on benefit adequacy, pension funding, and pension administration issues that occurred during the 1988-1989 Interim. The 1987-1988 and 1989-1990 membership of the Legislative Commission on Pensions and Retirement was as follows:

1987-1988	
Senate	House
Donald M. Moe (St. Paul)	Karen Clark (Minneapolis)
Lawrence J. Pogemiller (Minneapolis)	Bob A. Johnson (Bemidji)
Earl W. Renneke (LeSueur)	Gerald Knickerbocker (Hopkins)
Gene Waldorf (St. Paul)	Leo J. Reding (Austin)
Darrel Wegscheid (Apple Valley)	Wayne Simoneau, Chair (Fridley)

1989-1990	
Senate	House
Donald M. Moe, Chair (St. Paul)	Bob A. Johnson (Bemidji)
Steven Morse (Dakota)	Gerald Knickerbocker (Hopkins)
Lawrence J. Pogemiller (Minneapolis)	Rich O'Connor (St. Paul)
Earl W. Renneke (LeSueur)	Leo J. Reding (Austin)
Gene Waldorf (St. Paul)	Wayne Simoneau (Fridley)

The 1989 benefit increase legislation took a somewhat tortured path to enactment. Benefit increase proposals were introduced as S.F. 1329 (Pogemiller); H.F. 1302 (Simoneau) and were heard by the Commission, but the bill was laid over without further action on April 12, 1989. Eventually, S.F. 783 (Solon) became the vehicle bill. S.F. 783 (Solon), a bill introduced to authorize a fifth year incentive plan for teachers in the Duluth public schools, passed the Senate on May 1, 1989, on a 67-0 vote. On the House floor, S.F. 783 (Solon), a non-pension bill, was amended with a “delete-everything” amendment that included the various retirement benefit increase proposals that were assembled by the Pension Subcommittee, chaired by Representative Bob A. Johnson, and by the House Governmental Operations Committee, chaired by Representative Wayne Simoneau, and was returned to the Senate on May 19, 1989, four days before the adjournment deadline for the 1989 Legislative Session. Although the Duluth teacher salary provision was not retained by the House in S.F. 783 (Solon), Senator Sam Solon moved that the Senate concur in the House amendments on May 19, 1989. Senator Lawrence J. Pogemiller made a substitute motion for the Solon concurrence motion that the Senate not concur in the House amendment and that a conference committee be named. The Senate approved the Pogemiller motion to not concur on a vote of 34-33. Current, past, and future Commission members voted as follows:

For Pogemiller Motion	Against Pogemiller Motion
Langseth	Johnson, D.E.
Moe, D.M.	Larson
Morse	Metzen
Pogemiller	
Renneke	
Spear	
Stumpf	
Waldorf	

Subsequently, five Senators were appointed as a conference committee, Senators Solon, Moe, D.M., Moe, R.D., Pogemiller and Renneke. The House failed to appoint conferees and on May 22, 1989, the final day of the legislative session, Senator Gen Olson moved to recall S.F. 783 (Solon) from the House and the Olson motion was approved on a 35-28 vote, with current, past, and future Commission members voting as follows:

For Olson Motion	Against Olson Motion
Johnson, D.E.	Langseth Spear
Larson	Moe, D.M. Stumpf
Metzen	Morse Waldorf
Renneke	Pogemiller

The House returned S.F. 783 (Solon) to the Senate later on May 22, 1989, and Senator Gen Olson then moved that the Senate reconsider the vote on the Pogemiller non-concurrence motion of May 19, 1989. The Olson reconsideration motion prevailed on a voice vote, whereupon Senator Sam Solon moved that the Senate concur in the House amendments. Senator Richard Cohen moved to table the Solon motion, but the Cohen motion failed on a 23-37 vote, with current, past, and future Commission members voting as follows:

For Cohen Motion	Against Cohen Motion
Langseth	Johnson, D.E.
Moe, D.M.	Larson
Morse	Metzen
Renneke	Stumpf
Spear	

The Senate then approved the Solon concurrence motion on a 37-28 vote, with past, current, and future Commission members voting as follows:

For Solon Motion	Against Solon Motion
Johnson, D.E.	Langseth
Larson	Moe, D.M.
Metzen	Pogemiller
Morse	Renneke
	Spear
	Stumpf
	Waldorf

On final passage on S.F. 783 (Solon), the Senate approved the bill and sent it to the Governor on a 40-26 vote, with the following votes:

Those who voted in the affirmative were:

Anderson	Decker	Knutson	McQuaid	Purfeerst
Beckman	Dicklich	Kroening	Mehrkens	Ramstad
Belanger	Frank	Laidig	Metzen	Samuelson
Benson	Frederick	Lantry	Morse	Schmitz
Bernhagen	Frederickson, D.F.	Larson	Novak	Solon
Bertram	Johnson, D.E.	Lessard	Olson	Storm
Brataas	Johnson, D. J.	Marty	Pariseau	Taylor
Chmielewski	Knaak	McGowan	Piper	Vickerman

Those who voted in the negative were:

Adkins	Davis	Langseth	Peterson, D.C.	Stumpf
Berg	DeCramer	Luther	Peterson, R.W.	Waldorf
Berglin	Diessner	Merriam	Pogemiller	
Brandel	Freeman	Moe, D.M.	Reichgott	
Cohen	Gustafson	Moe, R.D.	Renneke	
Dahl	Hughes	Pehler	Spear	

1.1 moves to amend H.F. No. 1377; S.F. No. 1114, as follows:

1.2 Page 2, delete line 29

1.3 Page 4, delete line 10

1.4 Page 4, lines 14 and 19, delete "2011" and insert "2012"

1.5 Page 5, line 9, after "service" insert "under Minnesota Statutes, section 356.551, as
1.6 of the date of the asset transfer"

1.7 Page 5, line 10, after "purchased" insert "on June 30, 2014,"

1.8 Page 5, line 12, after "Duluth" insert "by the payment of the balance of the full
1.9 actuarial value payment amount" and after "356.551" insert ", plus compound interest at
1.10 the rate of 0.71 percent per month between the transfer date under paragraph (b) until
1.11 June 30, 2014"

1.12 Page 5, delete line 35 and insert:

1.13 "Sec. 4. **EFFECTIVE DATE; LOCAL APPROVAL.**

1.14 (a) Sections 1 to 3 are effective the day after the board of commissioners of the
1.15 Seaway Port Authority of Duluth and its chief clerical officer timely complete their
1.16 compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

1.17 (b) Authority of the Seaway Port Authority of Duluth to approve sections 1 to 3
1.18 expires on June 30, 2012."

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH
SESSION

HOUSE FILE NO. **1377**

April 5, 2011

Authored by Murphy, M.; Gauthier; Huntley and Hilty

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; Public Employees Retirement Association general
1.3 employees retirement plan; Seaway Port Authority of Duluth; including Seaway
1.4 Port Authority of Duluth employees in PERA-general retirement coverage;
1.5 authorizing the purchase of allowable service credit for prior Seaway Port
1.6 Authority of Duluth employment; amending Minnesota Statutes 2010, section
1.7 353.01, subdivisions 2a, 6.

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

1.9 Section 1. Minnesota Statutes 2010, section 353.01, subdivision 2a, is amended to read:

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

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

1.22 (2) elected county sheriffs;

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

2.1 (i) town and city clerk or treasurer;
 2.2 (ii) county auditor, treasurer, or recorder;
 2.3 (iii) city manager as defined in section 353.028 who does not exercise the option
 2.4 provided under subdivision 2d; or

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

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

2.8 (5) full-time employees of the Dakota County Agricultural Society; ~~and~~

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

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

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

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

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

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

2.30 Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 6, is amended to read:

2.31 Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a
 2.32 county, city, town, school district within this state, or a department, unit or instrumentality
 2.33 of state or local government, or any public body established under state or local
 2.34 authority that has a governmental purpose, is under public control, is responsible for the

3.1 employment and payment of the salaries of employees of the entity, and receives a major
 3.2 portion of its revenues from taxation, fees, assessments or from other public sources.

3.3 (b) Governmental subdivision also means the Public Employees Retirement
 3.4 Association, the League of Minnesota Cities, the Association of Metropolitan
 3.5 Municipalities, charter schools formed under section 124D.10, service cooperatives
 3.6 exercising retirement plan participation under section 123A.21, subdivision 5, joint
 3.7 powers boards organized under section 471.59, subdivision 11, paragraph (a), family
 3.8 service collaboratives and children's mental health collaboratives organized under
 3.9 section 471.59, subdivision 11, paragraph (b) or (c), provided that the entities creating
 3.10 the collaboratives are governmental units that otherwise qualify for retirement plan
 3.11 membership, public hospitals owned or operated by, or an integral part of, a governmental
 3.12 subdivision or governmental subdivisions, the Association of Minnesota Counties, the
 3.13 Minnesota Inter-county Association, the Minnesota Municipal Utilities Association, the
 3.14 Metropolitan Airports Commission, the University of Minnesota with respect to police
 3.15 officers covered by the public employees police and fire retirement plan, the Minneapolis
 3.16 Employees Retirement Fund for employment initially commenced after June 30, 1979, the
 3.17 Range Association of Municipalities and Schools, soil and water conservation districts,
 3.18 economic development authorities created or operating under sections 469.090 to
 3.19 469.108, the Port Authority of the city of St. Paul, the Seaway Port Authority of Duluth,
 3.20 the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire
 3.21 Department, incorporated, the Red Wing Environmental Learning Center, the Dakota
 3.22 County Agricultural Society, Hennepin Healthcare System, Inc., and the Minneapolis
 3.23 Firefighters Relief Association and Minneapolis Police Relief Association with respect to
 3.24 staff covered by the Public Employees Retirement Association general plan.

3.25 (c) Governmental subdivision does not mean any municipal housing and
 3.26 redevelopment authority organized under the provisions of sections 469.001 to 469.047;
 3.27 or any port authority organized under sections 469.048 to 469.089 other than the Port
 3.28 Authority of the city of St. Paul or the Seaway Port Authority of Duluth; or any hospital
 3.29 district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or
 3.30 the successor of the district; or the board of a family service collaborative or children's
 3.31 mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or
 3.32 471.59, if that board is not controlled by representatives of governmental units.

3.33 (d) A nonprofit corporation governed by chapter 317A or organized under Internal
 3.34 Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a
 3.35 governmental subdivision unless the entity has obtained a written advisory opinion from
 3.36 the United States Department of Labor or a ruling from the Internal Revenue Service

4.1 declaring the entity to be an instrumentality of the state so as to provide that any future
 4.2 contributions by the entity on behalf of its employees are contributions to a governmental
 4.3 plan within the meaning of Internal Revenue Code, section 414(d).

4.4 (e) A public body created by state or local authority may request membership on
 4.5 behalf of its employees by providing sufficient evidence that it meets the requirements in
 4.6 paragraph (a).

4.7 (f) An entity determined to be a governmental subdivision is subject to the reporting
 4.8 requirements of this chapter upon receipt of a written notice of eligibility from the
 4.9 association.

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

4.11 **Sec. 3. PERA-GENERAL; PRIOR SEAWAY PORT AUTHORITY OF DULUTH**
 4.12 **SERVICE CREDIT TRANSFER.**

4.13 Subdivision 1. **PERA-general coverage.** Employees of the Seaway Port Authority
 4.14 of Duluth on July 1, 2011, are public employees within the meaning of Minnesota
 4.15 Statutes, section 353.01, subdivisions 2 and 2a, and are members of the general employees
 4.16 retirement plan of the Public Employees Retirement Association as of that date.

4.17 Subd. 2. **Service and salary credit for prior Seaway Port Authority of Duluth**
 4.18 **employment.** (a) Any employee of the Seaway Port Authority of Duluth on the effective
 4.19 date of this section is eligible, on or after July 1, 2011, to transfer to the general employees
 4.20 retirement plan of the Public Employees Retirement Association prior service credit
 4.21 rendered in the employ of the Seaway Port Authority of Duluth as allowable service
 4.22 credit, but not to exceed the maximum set forth in paragraph (c), and prior salary received
 4.23 from employment by the Seaway Port Authority of Duluth as salary credit as provided in
 4.24 paragraph (b).

4.25 (b) The amount of allowable service and salary credit to be transferred to the general
 4.26 employees retirement plan for prior Seaway Port Authority of Duluth employment is that
 4.27 portion of the total prior Seaway Port Authority of Duluth employment that bears the same
 4.28 relationship that the assets transferred to the general employees retirement fund with
 4.29 respect to each applicable person bear to the full actuarial value of the benefit attributable
 4.30 to the prior service and salary under Minnesota Statutes, chapters 353 and 356. The full
 4.31 actuarial value of the benefit attributable to the prior service under Minnesota Statutes,
 4.32 chapters 353 and 356, is as provided in Minnesota Statutes, section 356.551. The assets
 4.33 transferred with respect to each applicable person is the person's account balance in the
 4.34 Seaway Port Authority of Duluth federal Internal Revenue Code Section 401(a) retirement
 4.35 plan, the person's account balance in a federal Internal Revenue Code Section 457 deferred

5.1 compensation plan, the person's share of any purchase payment amounts that the Seaway
5.2 Port Authority of Duluth irrevocably commits to contribute to the general employees
5.3 retirement fund, and any purchase payment amount contributed by the applicable person
5.4 to the general employees retirement fund. Any amounts from the federal Internal Revenue
5.5 Code Section 401(a) retirement plan, the federal Internal Revenue Code Section 457
5.6 deferred compensation plan, or from a purchase payment amount provided by the Seaway
5.7 Port Authority of Duluth must be made on an institution-to-institution basis.

5.8 (c) If the assets transferred with respect to an applicable person under paragraph
5.9 (b) are less than the full actuarial value of the benefit attributable to the prior service, the
5.10 untransferred balance of the prior service and salary may be purchased by the applicable
5.11 person or a combination of the applicable person and the Seaway Port Authority of
5.12 Duluth under Minnesota Statutes, section 356.551. No applicable person may purchase
5.13 more allowable service and salary credit from the general employees retirement plan of
5.14 the Public Employees Retirement Association than the person's period of employment
5.15 by the Seaway Port Authority of Duluth rendered before the effective date of this section
5.16 if the employment would have been eligible service and salary for general employees
5.17 retirement plan coverage if the service had been rendered or salary received after the
5.18 effective date of this section.

5.19 (d) An applicable person must provide any documentation related to eligibility
5.20 under the general employees retirement plan that is required by the executive director.
5.21 Allowable service and salary credit for any period must be transferred and recognized
5.22 by the general employees retirement plan for an applicable person upon receipt of the
5.23 associated transferred assets.

5.24 (e) Transferred service and salary credit related to the Seaway Port Authority of
5.25 Duluth before July 1, 1989, does not make a person eligible for a retirement annuity under
5.26 Minnesota Statutes, section 353.30, subdivision 1a.

5.27 (f) Authority to have service and salary credit transferred under this section expires
5.28 on July 1, 2013, or on the date that the applicable person terminates employment by the
5.29 Seaway Port Authority of Duluth, whichever is earlier.

5.30 Subd. 3. **Status of service transfer amounts.** Notwithstanding any provision of
5.31 Minnesota Statutes, section 353.32, 353.34, or 353.35, to the contrary, amounts transferred
5.32 to the general employees retirement fund of the Public Employees Retirement Association
5.33 under subdivision 2 must be considered to be an accumulated member contribution
5.34 deduction.

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