



S.F. xxxx

H.F. 1873
(O'Driscoll)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Minnesota Statutes, Section 353.01
General Nature of Proposal: Coverage exclusion for fixed-route St. Cloud MTC bus drivers
Date of Summary: February 7, 2014

Specific Proposed Changes

- Ratifies in statute the current pension coverage situation of bus drivers employed by the St. Cloud Metropolitan Transit Commission, with the fixed-route bus drivers employed by the St. Cloud Metropolitan Transit Commission covered by the Teamsters Central States Pension Plan and Fund and excluded from retirement coverage by the PERA General Employees Retirement Plan (PERA-General).

Policy Issues Raised by the Proposed Legislation

1. Need to comply with federal Section 13(c) requirements.
2. Need to comply with Minnesota Statutes, Section 458A.07, requirements.
3. Minnesota Statutes, Sections 356.24 and 356.25, prohibitions on employer contributions to local or supplemental retirement plans.
4. Appropriateness of PERA approach as alternative resolution.
5. Appropriateness of current disparate retirement coverage for St. Cloud bus drivers.
6. Retroactivity.
7. Application to other public transit agencies and their employees; precedent.
8. Need to compel greater PERA enforcement of its membership inclusions and exclusions.

Potential Amendments

H1873-1A Add exceptions to Minnesota Statutes, Sections 356.24 and 356.25.

H1873-2A is intended to implement the PERA alternative as the Commission staff understands it.

H1873-3A implements an exclusion for any St. Cloud Metropolitan Transit Commission bus drivers if covered by the International Brotherhood of Teamsters Central States Pension Plan.

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TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director
RE: S.F. xxxx; H.F. 1873 (O'Driscoll): PERA-General; Resolution of the St. Cloud Metropolitan Transit Commission Bus Driver Pension Coverage Issue
DATE: February 6, 2014

Summary of S.F. xxxx; H.F. 1873 (O'Driscoll)

S.F. xxxx; H.F. 1873 (O'Driscoll) amends Minnesota Statutes, Section 353.01, Subdivision 2b, the exclusions from membership in the retirement plans administered by the Public Employees Retirement Association (PERA) by adding an exclusion for any St. Cloud Metropolitan Transit Commission bus driver who is a member of the Teamsters Local #638 and who is, by virtue of that employment, also a member of the Teamsters Central States Pension Plan, effective retroactively to the date that St. Cloud transit employees became direct employees of the St. Cloud Metropolitan Transit Commission on August 1, 1986.

St. Cloud Metropolitan Transit Commission Bus Driver Pension Plan Coverage Problem

The St. Cloud Metropolitan Transit Commission, created in 1969 by Laws 1969, Chapter 1134, Sections 1 to 15, and governed by Minnesota Statutes, Sections 458A.01 to 458A.15, initially operated the transit system by contracting with a management company which employed the transit personnel. In 1986, the St. Cloud Metropolitan Transit Commission opted to directly operate the transit system, with the transit personnel, including bus drivers, being directly employed by the transit commission. With that change in 1986, the St. Cloud Metropolitan Transit Commission asked for an Attorney General's opinion on the question of membership in the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) and received the opinion of the Attorney General's Office that employees directly employed by the transit commission were covered by PERA-General, even if some or all employees continued in retirement plan coverage under the Teamsters retirement plan. The St. Cloud Metropolitan Transit Commission has told PERA that it received a subsequent Attorney General's determination that permitted the exclusion from PERA-General coverage of those bus drivers who participated in the Teamsters Union Central States Pension Fund, but has not been able to document that changed determination. Sometime in early 2013, PERA notified the St. Cloud Metropolitan Transit Commission that all commission personnel, not just non-union bus drivers, must become members of PERA-General, retroactive to January 1, 2010.

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- Attachment A:** Background information on PERA-General membership inclusions and exclusions.
- Attachment B:** Background information on the St. Cloud Metropolitan Transit Commission.
- Attachment C:** Background information on the Teamsters Central States Pension Plan.
- Attachment D:** Background information on the Section 13(c) Urban Mass Transportation Act of 1964 requirements.

Discussion and Analysis

S.F. xxxx; H.F. 1873 (O'Driscoll) would ratify in statute the current pension coverage situation of bus drivers employed by the St. Cloud Metropolitan Transit Commission, with the fixed-route bus drivers employed by the St. Cloud Metropolitan Transit Commission covered by the Teamsters Central States Pension Plan and Fund and excluded from retirement coverage by the PERA General Employees Retirement Plan (PERA-General) and with the non-fixed-route bus drivers employed by the St. Cloud Metropolitan Transit Commission continuing in PERA-General membership and apparently excluded from the Teamsters Central States Pension Plan, with the fixed-route bus driver exclusion made retroactive to the August 1, 1986, date on which the St. Cloud Metropolitan Transit Commission assumed direct employment of the bus drivers.

The proposed legislation raises a number of pension and related public policy issues for consideration by and possible discussion among Commission members, as follows:

1. Need to Comply with Section 13(c) Requirements. The policy issue is the question of the nature of the employment compensation and benefit requirements arising from Section 13(c) of the 1964 Urban Mass Transportation Act, applicable to the St. Cloud Metropolitan Transit Commission, and whether the proposed legislation would comply with those employment benefit requirements. Under 49 U.S.C. 5333(b), the codification of Section 13(c) of the Urban Mass Transportation Act of 1964, federal law requires, as a condition for federal public transit funding, that a governmental entity that acquires a private sector transit company enter into an arrangement with the federal Department of Labor protecting the existing collective bargaining rights, jobs, and benefits of transit employees from adverse impacts from provided federal funds and provides a procedure for resolving disputes over collective bargaining and terms and conditions of employment. The federal enactments provides that:

[A]rrangements under this subsection shall include provisions that may be necessary for--

- the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;
- the continuation of collective bargaining rights;
- the protection of individual employees against a worsening of their positions related to employment;
- assurances of employment to employees of acquired public transportation systems;
- assurances of priority of reemployment of employees whose employment is ended or who are laid off; and
- paid training or retraining programs.

The St. Cloud Metropolitan Transit Commission appears to have first received federal Urban Mass Transportation Administration funding in 1973, and, if so, that date would have established the retirement benefit coverage for comparison under Section 13(c). The current Section 13(c) arrangement document between the St. Cloud Metropolitan Transit Commission and the federal Department of Labor and its predecessor documents have not been provided to the Commission, so it is unclear what pension benefit coverage requirements the federal government is insisting upon as a condition for the receipt of federal transit funds. The St. Cloud Metropolitan Transit Commission is making the argument, through its legal counsel that the continuation of Teamsters Central States Pension Plan retirement coverage is required under Section 13(c) arrangements, and to avoid the financial burden of funding double pension coverage, requires the proposed exclusion of the St. Cloud fixed-route bus drivers from coverage by the PERA General Employees Retirement Plan (PERA-General) rather than PERA-General membership as current PERA-law requires. If the Commission finds merit in that argument, the Commission should request that the St. Cloud Metropolitan Transit Commission produce its current and past Section 13(c) arrangements with the federal Department of Labor for a close and comprehensive analysis of their requirements and their potential conflict with state law.

2. Need to Comply with Minnesota Statutes, Section 458A.07, Requirements. The law creating the St. Cloud Metropolitan Transit Commission, enacted in 1969 (Laws 1969, Ch. 1134), and not substantively amended subsequently, included a labor agreement continuation provision, Minnesota Statutes, Section 458A.07. Minnesota Statutes, Section 458A.07, required:

[I]f the commission acquires an existing transit system, the commission shall assume and observe all existing labor contracts and pension obligations. All employees of such system except executive and administrative officers who are necessary for the operation thereof by the commission shall be transferred to and appointed as employees of the commission for the purposes of the transit system, subject to all the rights and benefits of sections 458A.01 to 458A.15. Such employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transit system. The commission shall assume the obligations of any transit system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The commission and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired transportation system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the commission and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the commission shall by reason of such transfer be placed in any worse position with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits than the person enjoyed as an employee of such acquired transportation system.

Minnesota Statutes, Section 458A.07, appears to cover the same transit employee employment benefit protections as the federal Section 13(c) arrangements do, but apply whether or not the St. Cloud Metropolitan Transit Commission receives any federal transit funding or not and has a comparison date triggered by the direct transit system acquisition rather than initial receipt of federal funding (potentially 1986 rather than 1973). Also, Minnesota Statutes, Section 458A.07, obligates the St. Cloud Metropolitan Transit Commission and the bus drivers union to create a new trust fund and to transfer any pension trust funds that existed upon acquisition to that newly created trust fund, which

mandate has not complied with. To determine whether or not retirement coverage under PERA-General, as required by current law, was diminished by a shift of fixed-route bus drivers to PERA-General membership in 1986, more information would be needed about the Teamsters Central States Pension Plan covering fixed-route bus drivers in 1986. The Commission should consider requesting from the St. Cloud Metropolitan Transit Commission the applicable information relating to fixed-route bus driver pension benefits as of 1986.

3. Minnesota Statutes, Sections 356.24 and 356.25, Prohibitions on Employer Contributions to Local or Supplemental Retirement Plans. The policy issue is whether or not Minnesota Statutes, Sections 356.24 and 356.25, apply to the current St. Cloud Metropolitan Transit Commission fixed-route bus driver retirement coverage and its proposed retention. Minnesota Statutes, Section 356.24, enacted in 1971 (Laws 1971, Ch. 222, Sec. 1), and substantively amended more than 20 times since, and Minnesota Statutes, Section 356.25, enacted in 1975 (Laws 1975, Ch. 405, Sec. 1) and substantively amended two or three times since, prohibit governmental subdivisions from establishing local retirement plans other than volunteer firefighter relief associations, that were not authorized by legislative enactment and from making employer contributions to most supplemental pension or deferred compensation plans. Applied to the St. Cloud Metropolitan Transit Commission, and read consistent with Minnesota Statutes, Section 458A.07, the transit commission, upon directly operating the transit system, is prohibited from making contributions to any pension plan for fixed-route bus drivers other than the pension plan and trust fund established to replace the pre-1986 plan and fund.
 - If an exclusion of St. Cloud Metropolitan Transit Commission fixed-route bus drivers from PERA-General membership as proposed is to be enacted, it would be advisable to also add exceptions to Minnesota Statutes, Sections 356.24 and 356.25. **Amendment H1873-1A** adds those statutory exceptions.
4. Appropriateness of PERA Approach as Alternative Resolution. The policy issue is whether or not the approach that the Public Employees Retirement Association (PERA) has forwarded to the St. Cloud Metropolitan Transit Commission is a preferable alternative resolution to the pension coverage problem. PERA, in an undated communication apparently sent to the St. Cloud Metropolitan Transit Commission, indicates that membership in the PERA General Employees Retirement Plan (PERA-General) is mandatory for all employees who are compensated in excess of the salary threshold of \$425 in any one month and indicates that this requirement has been in effect since 1986, but also suggests an alternative. The PERA alternative would include in PERA-General membership all fixed-route drivers who were hired after December 31, 2009, or non-fixed-route drivers who were hired before January 1, 2010, and became fixed-route drivers after December 31, 2009, with unpaid member and employer contributions, plus interest, payable for uncollected amounts since January 1, 2010. Pre-December 21, 2009, fixed-route drivers would continue with only Teamsters Central States Pension Plan coverage with the enactment of proposed legislation sought by the St. Cloud Metropolitan Transit Commission to exclude them, and future Teamsters Central States Pension Plan for PERA-General-covered employees as the St. Cloud Metropolitan Transit Commission and the Teamsters Union Local determine. While the Commission staff does not have specific information on the contribution structure of the Teamsters Central State Pension Plan, double pension coverage with PERA-General for post-December 31, 2009, fixed-route drivers could be very significant and financially difficult. The double pension coverage also would involve pension coverage considerably in excess of what would be adequate, beyond what is the pension coverage goal expressed in the Commission's Principles of Pension Policy.
 - **Amendment H1873-2A** is intended to implement the PERA alternative as the Commission staff understands it.
5. Appropriateness of Current Disparate Retirement Coverage for St. Cloud Bus Drivers. The policy issue is the appropriateness of the current pension coverage structure for St. Cloud bus drivers, which would be continued indefinitely into the future. For St. Cloud bus drivers who begin their transit careers as non-fixed-route drivers and who gain fixed-route status over time, potentially the career route for many drivers, the person would have a combination of separate, non-portable, retirement coverages, with PERA-General coverage for the non-fixed-route period and with Teamsters Central States Pension Plan coverage for the fixed-route period. With the 2010 financial sustainability legislation downsizing of deferred annuity augmentation, the purchasing power of the mixed career driver's PERA-General portion of pension coverage would not likely be maintained. For the personnel involved, a better pension plan design would be to have their entire career covered by one retirement plan or the other, rather than a mix of the two for potentially a majority of drivers.
 - **Amendment H1873-3A** implements an exclusion for any St. Cloud Metropolitan Transit Commission bus drivers who are eligible for coverage by and are covered by the International Brotherhood of Teamsters Central States Pension Plan, effective immediately and applicable retroactively to post-January 1, 2010, fixed-route bus drivers.

6. Retroactivity. The policy issue is the appropriateness of making an exclusion from PERA-General for fixed-route drivers retroactive to August 1, 1986, the date on which fixed-route drivers became direct employees of the St. Cloud Metropolitan Transit Commission. PERA only has authority to collect omitted contributions administratively for three prior years, so retroactivity to relieve the St. Cloud Metropolitan Transit Commission St. Cloud Metropolitan Transit Commission of any liability to PERA under current law would only need to extend to 2011 or 2010. The retroactivity also would have the effect of preempting any current St. Cloud Metropolitan Transit Commission fixed-route driver from pursuing special legislation to obtain the public pension plan coverage that the person in law was entitled to have.
7. Application to Other Public Transit Agencies and Their Employees; Precedent. The policy issue is the situation of other public transit agencies, the potential for the existence of similar problems in existing public transit agencies, and the applicability of the proposed solution to those public transit agencies. According to 2009 information provided in a Minnesota Department of Transportation report (Greater Minnesota Transit Plan 2010-2030), county-wide transit services exist in 75 of Minnesota's 87 counties and one or more municipal transit system exists in eight of the remaining counties, leaving only four counties (Kittson, Pine, Waseca, and Walkin) without any public transit operations. In only seven urban areas (Duluth, East Grand Forks, LaCrescent/LaCrosse, Mankato, Moorhead, Rochester, St. Cloud, and the Twin Cities) is there regular fixed-route bus service, with the balance of transit areas primarily only demand-response bus service or route-deviation bus service. Where the transit agency operates with direct employment of bus drivers and other transit personnel, if not currently participating in the PERA General Employees Retirement Plan (PERA-General), the transit operation likely has the same problem as the St. Cloud Metropolitan Transit Commission. The Commission staff does not have specific information on public ownership and public direct employment of transit employees, so the staff cannot delineate where there is a problem identical to or similar to the St. Cloud Metropolitan Transit Commission.
8. Need to Compel Greater PERA Enforcement of Its Membership Inclusions and Exclusions. The policy issue arising from this proposed special legislation to resolve a membership issue with the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) is the apparent inability of PERA to comply with a state law mandate for vigilant monitoring of compliance with PERA membership inclusions and exclusions. Minnesota Statutes, Section 353.27, Subdivisions 7, 7a, 7b, 10, 11, 12, and 14, relate to monitoring membership inclusions and exclusions and the correction of member and employer contribution underpayments and overpayments. If PERA was diligently monitoring membership inclusions and exclusions for its largest retirement plan, PERA-General, this St. Cloud Metropolitan Transit Commission bus driver unsanctioned exclusion dating from 1986, the erroneous inclusion of employees of the Red Wing Port Authority addressed in 2011, the erroneous inclusion of Stevens County Housing and Redevelopment Authority employees addressed in S.F. xxxx; H.F. 1894, and dozens and dozens of PERA-General service credit purchase bills arising from erroneous exclusions over the years would not have occurred. Annually, the PERA administrator apologizes for the agency's failure on membership errors giving rise to corrective legislation, but PERA does not appear to be resolving its membership determination and reporting deficiencies. Embarrassment over repeated errors and omissions does not appear to be sufficient impetus to prompt greater PERA efforts to resolve these issues.

Background Information on PERA-General Membership Inclusions and Exclusions

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

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

2. Current Optional Memberships. Optional PERA-General membership by action of the individual are employees of public sector labor organizations, persons in elected or appointed positions other than local governing body positions, PERA-General members appointed by the governor as a state department head who decline coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), city managers, and pre-2003 St. Paul Port Authority employees who were over age 44 in 2003. Optional PERA-General membership by action of the employing entity are employees of the Minnesota Association of Townships, county historical societies, or Hennepin Healthcare Systems, Inc. employees.
3. Current Membership Exclusions. Exclusions from PERA-General membership are persons with salary from a governmental subdivision that never exceeds \$425 in any month, public officers on the governing body of a governmental subdivision, election judges and officers, patient or inmate personnel, temporary employees, fire, flood, storm, or disaster emergency employees of a governmental subdivision, persons required by law to be a member of another Minnesota retirement plan by virtue of their governmental subdivision employment, religion order members, employees under age 23 who are full-time students, physician residents, medical interns, and pharmacy residents, part-time technical college instructors with a part-time adult supplementary technical college license, foreign citizens with short-term work permits or visas, public hospital employees electing not to participate before 1972 and in 1988, volunteer ambulance personnel, volunteer firefighters, various local government trades personnel, seasonal employees, supported employment employees, work study employees, independent contractors and their employees, reemployed annuitants, and governmental subdivision board or commission members.

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

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

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

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

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

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

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

Plan membership provisions were amended to also exclude:

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

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

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

Specific PERA membership inclusions were added, indicated as:

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

Fifteen specific PERA membership exclusions were added, indicated as:

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

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

The PERA coverage exclusion provision was modified by:

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

The PERA membership exclusion provision was modified by:

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

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

The PERA coverage exclusion provision was modified to:

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

The PERA membership exclusion provision was revised by:

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

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

The PERA membership exclusions provision was revised by:

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

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

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

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

The PERA coverage exclusion provision was modified by:

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

Background Information on the St. Cloud Metropolitan Transit Commission

1. Organization. The St. Cloud Metropolitan Transit Commission (SCMTC) was established by the Minnesota Legislature as a political subdivision transit authority of the State of Minnesota. The SCMTC's initial governing board was comprised of Waite Park mayor, Alcuin Ringsmuth; Sauk Rapids mayor, Arthur (Ben) Gratzek; St. Cloud councilman David Sauer; and St. Cloud councilman George Reasbeck. The SCMTC's original transit area was composed of the cities of St. Cloud, Sauk Rapids and Waite Park.
2. Initial Bus Service. The St. Cloud Bus Lines, Inc., owned by Stanley Preusse since 1966, had discontinued five of the firm's seven prior bus routes two weeks before the SCMTC establishment. Initially, the SCMTC debated whether or not to enter into an operations contract with the St. Cloud Bus Lines, Inc., or with the owners of the Voigt Charter Company. The SCMTC ultimately voted to negotiate a management contract with the Voigt Charter Company for bus service in the St. Cloud area. Stanley Preusse continued to operate one bus on routes in Sauk Rapids, Waite Park and St. Cloud through the balance of 1969. The Voigt Charter Company incorporated its city bus line as Transit Systems, Inc., and began bus service with three buses in October, 1969, on routes in Sauk Rapids, St. Cloud, and Waite Park and with buses periodically routed to the St. Cloud Hospital and to the South Side college area. Later in 1969, three additional buses were put into service.
3. 1970's Service. In 1970, Transit Systems, Inc. increased its bus service and the SCMTC levied a property tax for the bus service in the three communities. In 1973, the SCMTC obtained eight new 45-passenger diesel buses from the General Motors Corporation with financial assistance from the Urban Mass Transportation Administration of the United States Department of Transportation, and, in 1974, purchased one additional 45-passenger diesel bus. The new 1973-1974 GMC buses replaced a fleet of older 1957 leased buses. Also, in 1974, in cooperation with the St. Cloud Area Council for the Handicapped and various other local social service agencies, the SCMTC began specialized service for the handicapped. In 1975, the SCMTC obtained a piece of off-street urban renewal property for a central transfer point, reduced fares, eliminated the use of transfer tickets, received \$60,007 in supplemental aid funds under 1974 State legislation creating a Supplemental Transit Aid Program to cover up to two-thirds of the transit system's operating deficit, and received capital and operating funding assistance under the Urban Mass Transportation Act Section 5 program. Between 1975 and 1980, minibuses were added between the St. Cloud State University and high density student populations, added nine 1966 GMC buses purchased from the Twin Cities Metropolitan Transit Commission.
4. 1980's Management Changes. In 1983, the SCMTC made changes with the vendor operating the bus service. In August, 1986, the SCMTC ended its contract with Transit Systems, Inc., and shifted to directly employing bus operations personnel and directly managing the transit system. The 1986 had the effect of making the employees public sector employees rather than private sector employees. When the SCMTC was contemplating this change in early 1986, a law firm retained by the SCMTC contacted the Public Employees Retirement Association (PERA) about the pension coverage of its bus drivers, who were members of the International Brotherhood of Teamsters and covered by the Teamsters Central States Pension Plan and Fund. The PERA staff forwarded the SCMTC law firm questions to its Special Assistant Attorney General, who informed the SCMTC that PERA General Employees Retirement Plan membership would become mandatory when the SCMTC assumed direct management and personnel employment on August 1, 1986. The SCMTC law firm indicated that it was the Teamster Union's indicated desire to obtain an exemption from PERA-General Employee Retirement Plan membership through special legislation and to continue Teamster's Central States Pension Plan coverage instead, but no special legislation to this effect appears to have been enacted. The SCMTC indicates that it was informed later in 1986 that the Attorney General's initial determination on mandatory PERA-General membership was modified and that it had a membership exclusion for its fixed-route bus drivers. Neither PERA nor the SCMTC has been able to produce any written evidence of the determination change.
5. Current Operations. The SCMTC governing board is composed of Dave Kleis, Mayor, City of St. Cloud; Amy Braig-Lindstrom, Council Member, City of Sartell; Harold Jesh, former mayor, City of Sauk Rapids; Carolyn Garven, Council Member, City of St. Cloud; and Rick Miller, Mayor, City of Waite Park. The SCMTC currently has two operating divisions, a fixed-route division and a dial-a-ride division. The fixed-route division has 21 fixed routes, serviced by 39 buses with an average age of eight years, and has an average number of 7,900 weekday passenger trips. The dial-a-ride division has 22 buses with an average age of three years and has an average number of 500 weekday trips. The SCMTC owns/operates a 77,425 square foot operations center that was built in 1985 and expanded in 1994, 1998, 2000, 2005 and 2006 and that houses administrative offices, the Dial-a-Ride dispatching, the Fixed Route call center, a maintenance shop, and vehicle storage, a multimodal transfer facility in downtown St. Cloud that was built in 1992 and remodeled and expanded in 2012, a Crossroads Center Bus Stop built in 2005, 56 bus shelters, and 700+ signed bus stops throughout the St. Cloud, Sartell, Sauk Rapids, and Waite Park transit service area. The SCMTC operating budget for Fiscal Year 2013 was \$9.5 million.

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Background Information on the Teamsters Central States Pension Plan

1. **In General.** The Central States Pension Fund is a "defined benefit plan." Under the Pension Protection Act of 2006, a federal law, a pension plan is required to adopt a Rehabilitation Plan if the plan is in critical status.

The Central States Funds Pension Plan has been certified by the plan actuary to be in critical status, and established a Rehabilitation Plan in 2008, with updates in subsequent years. The plan is considered to be in critical status because it has funding or liquidity problems, or both. The plan's actuary has determined that:

- (1) the plan has an accumulated funding deficiency for the current plan year and the plan is projected to have an accumulated funding deficiency for the 2014 through 2016 plan years;
- (2) the funded percentage of the plan is less than 65%, the plan has an accumulated funding deficiency for the current plan year, and the plan is projected to have an accumulated funding deficiency for the 2014 through 2017 plan years;
- (3) the sum of the plan's normal cost and interest on the unfunded benefits for the current plan year exceeds the present value of all expected contributions for the year; the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; the plan has an accumulated funding deficiency for the current plan year, and the plan is projected to have an accumulated funding deficiency for the 2014 through 2017 plan years; and
- (4) the plan was in critical status last year, the plan has an accumulated funding deficiency for the current plan year, and the plan is projected to have an accumulated funding deficiency for the 2014 through 2022 plan years.

The rehabilitation plan is aimed at restoring the financial health of the plan by reducing or eliminating benefits called "adjustable benefits" and by imposing an employer contribution surcharge. The adjustable benefits for the plan are :

- Post-retirement death benefits;
- Sixty-month payment guarantees;
- Disability benefits for disabilitants not yet in pay status;
- Early retirement benefits or retirement-type subsidies;
- Benefit payment optional annuity forms other than a qualified joint-and survivor annuity;
- Benefit increases occurring in past five years; and
- Other similar benefits, rights, or features under the plan.

The amount of the employer contribution surcharge is an amount equal to a percentage of the amount an employer is otherwise required to contribute to the plan under the applicable collective bargaining agreement, set at a five percent surcharge in the initial critical year and a ten percent surcharge for each succeeding plan year thereafter in which the plan remains in critical status.

2. **Plan Membership Eligibility.** A person is a participant in the pension plan after the employer contributes to the Fund on the employee's behalf for a period of 20 weeks, 75 days, or 600 hours in a 12 month period.
3. **Plan Vesting.** To qualify for benefits, a plan member must be vested by earning a right to a pension upon retirement at age 65 even if the person left the industry before actual retirement. The period is generally the completion of five years of Vesting Service or ten years of Vesting Service if the person left plan coverage before 1999.
4. **Service Credit and Breaks in Service.** Throughout a plan member's career, the person earns credit for each year worked and were credited Contributions to the Plan. A plan member earns Non-Contributory Credit according to the number of hours worked per year, with One year of Non-Contributory Credit for 1,000 or more hours of employment in a calendar year, One-half year of Non-Contributory Credit for 500-999 hours of employment in a calendar year, or No Non-Contributory Credit for less than 500 hours of employment in a calendar year. The service credit is used to calculate the benefit at retirement.

If a plan member stops working in Covered Service for an extended period, called a Break in Service, the person may risk losing the vesting service and pension credit earned. To keep the Vesting Service

and credit earned, the plan member must avoid a Break in Service. Once vested, a plan member cannot subsequently have a Break in Service regardless of how long the person was out of Covered Service. A break in service occurs when the plan member who is not vested has a number of One-Year Breaks in a row and the break in service causes the plan member to lose all plan credit and Vesting Service. A One-Year Break is a calendar year with less than ten weekly Contributions or with less than 37 daily Contributions for years after 1984, or with less than 45 daily Contributions for years before 1985, or with less than 300 hours of Contributions, or with less than 450 hours of Vesting Service for continuous employment.

5. Benefit Class. The plan member's Benefit Class can directly affect the amount of the person's retirement benefit. The Benefit Class is based on the level supported by the most recent Employer Rate paid on the plan member's behalf if the person had Continuous Contributions as of December 31, 2003 and thereafter until retirement. With employment for multiple Contributing Employers at varying Benefit Classes, or with One Year Breaks, the person's Benefit Class could be based on the Non-Continuous Method (Average Rate).
6. Retirement Benefits. The Plan provides four different kinds of Retirement Benefits and if a plan member qualifies for more than one kind, the highest benefit amount to which the person was entitled is payable. The four Retirement Benefits are:
 - (1) Contribution-Based Pension: The Contribution-Based Pension is based on all Contributions paid on a plan member's behalf while a Participant in the Pension Plan, calculated as the Contributions after 2003 multiplied by one percent,) plus Contributions between 1986 and 2003 multiplied by two percent, plus Contributions before 1986
 - (2) Contributory Credit Pension: The Contributory Credit Pension is based on the plan member's years of Contributory Credit, the plan member's Benefit Class, your Qualifying Age, and the Contributions the plan member earned after 2003. The amount of the plan member's pension depends on the plan member's Qualifying Age, the plan member's established Benefit Class, the plan member's Total number of years of Contributory Credit earned as of the plan member's retirement date, the plan member's Number of years of Contributory Credit earned as of December 31, 2003, and Any additional benefit earned after December 31, 2003.
 - (3) Twenty-Year Service Pension: The Twenty-Year Service Pension is a Retirement Benefit the plan member can earn if the person has at least 20 years of Credit. To earn the benefit, the plan member can combine the person's Contributory Credit and Non-Contributory Credit. If the plan member's Qualifying Age is less than 57, the benefit is called the Early Retirement Pension, and the benefit amount is based on the plan member's Qualifying Age in years and months, with the amount for the next higher age on the chart reduced by 0.5% per month of the amount payable for age 57.
 - (4) Deferred Pension: A deferred pensions is a delay in a person's Retirement Benefit to get a higher monthly benefit amount by delaying the age at which retirement benefits commence.

For Retirement Benefit payments beginning after July 1, 2011, the plan member must be at least age 57 to receive any type of Retirement Benefit.

7. Reemployment after Retirement: Certain types of reemployment after retirement are considered restricted. If a retiree accepts employment in violation of the Restricted Reemployment rules, Retirement Benefits will be suspended until the retiree stops working in Restricted Reemployment. Additionally, future benefits may be forfeited or reduced to reimburse the Plan for any benefits paid while working in Restricted Reemployment. A retiree may work an unlimited number of hours in any employment that is not Restricted Reemployment and has been approved by the Fund.
8. Retirement Plan Funding. In 2012, the Central States Pension Fund was 53.9% funded, down from 58.9% funded in 2011, with 2012 accrued liabilities of \$34,914,643,948 and 2012 assets (actuarial value) of \$18,829,345,753.
9. Plan Administrator. The administrator of the Central States Pension Plan and Fund is Thomas C. Nyhan, Executive Director at Central States, Southeast and Southwest Areas Pension Fund, 9377 West Higgins Road, Rosemont, Illinois. The governing board for the plan and fund consists of four Union representatives: Charles A. Whobrey, Jerry Younger, Marvin Kropp, and George J. Westley, and four employer representatives: Arthur H. Bunte, Jr., Gary F. Caldwell, Ronald DeStefano, and Greg R. May.

Background Information on Section 13(c) Urban Mass Transportation Act of 1964 Requirements

1. Transit Situation after World War II. Most public transit systems throughout the United States were once privately owned monopoly franchise street railroad companies that were replaced by or reformulated as urban bus companies. By the 1960's, with the rising real income of the American population, the improvement of federal, state and local road systems, the growth of suburbs, and increasing automobile ownership, private urban bus companies were struggling to remain profitable. Some transit systems went out of business, while other transit systems sought financial assistance from the local government in whose jurisdiction they operated. From 1940, when reportedly there were 20 publicly owned urban transit systems, the American Public Transit Association indicated that the number of publicly owned urban transit systems grew to 581 by 1982.
2. Local Government Transit System Response to Transit Problems. Municipal assistance to local transit systems typically required the creation of organizational structures to facilitate transit asset ownership, to employ existing transit personnel, to fulfill labor contract obligations, to enable access to public funding, and to protect local taxpayer transit investments. When local governments took ownership of local transit system assets, that action transitioned the affected private employees into public employment and required the assumption of existing financial obligations, such as transit employee pension plans. As government employees, state labor laws governed the employment of the transferred transit employees.
3. Federal Mass Transit Legislation. The federal government has decided to subsidize urban mass transit systems. The Urban Mass Transportation Act of 1964 was a part of a federal transit program that was initiated in the 1960's to help fund the purchase of transit capital assets. The program was expanded later to provide assistance for ongoing transit operations. Federal transit funding has played a critical role as local governments attempted to salvage their transit systems either by purchasing local bus companies or purchasing and operating local bus companies.
4. Section 13(c) Agreements. To become eligible for federal transit funding under the Urban Mass Transportation Act of 1964, local governments were required to negotiate employee protection agreements with private sector employee unions under Section 13(c) of the Act, which became 49 United States Code Section 5333(b). These "Section 13(c) agreements" remain applicable. Local governments must certify as part of each grant application that they will preserve the transit employee rights and benefits existing at public acquisition, will continue transit employee collective bargaining rights existing at public acquisition, will protect transit employee against a worsening of their employment conditions after the public acquisition, will assure continued employment for transit employees of acquired mass transit systems if federal funds were used in the acquisition, will provide a priority for reemployment if the transit employee was laid off or suffered job elimination after the public acquisition that were caused by the federally-funded project, and will provide employer-paid retraining. Section 13(c) requires that the public transit agency pay a displacement or dismissal allowance to the transit employee for a period equal to the employee's length of service at displacement or dismissal, but not to exceed six years. A displacement allowance pays the difference between the current position and the one from which the employee was removed. A dismissal allowance pays an employee the full wage for the position the employee lost. Section 13(c) however does not protect transit employees from the adverse effects that are not caused, directly or indirectly, by Federal funding, such as changes in the volume and the character of employment resulting from causes other than the federally-funded transit project.

The Section 13(c) process begins when a public transit agency submits a grant application to the Federal Transit Administration. The Federal Transit Administration forwards the grant application to the U. S. Department of Labor for Section 13(c) certifications, followed by a referral by the U. S. Department of Labor of its proposed protective terms and conditions to the applicant public transit agency and the applicable labor union or unions for review. All transit grants are reviewed for Section 13(c) compliance by the labor union representing the employees funded by the grant. Local union bargaining units may provide input to its national or international labor union. The public transit agency and the applicable labor union or unions have 15 days after the referral to agree to the proposed terms and conditions or to file objections with the U. S. Department of Labor. The U. S. Department of Labor has ten days to consider any filed objections and is not required to wait for responses to objections to be filed by the other entity. The ultimate decision as to Section 13(c) compliance occurs at the federal level and an impasse over negotiations of a collective bargaining agreement or a backlog of grievances are not considered by the U. S. Department of Labor as sufficient grounds to deny certification or as a valid objection justifying a renegotiation of Section 13(c) arrangements. If either party deems that transit worker rights have been diminished or their position worsened, funding is denied until the issues in question are resolved.

5. Current/Recent Pension-Related Disputes Related to Section 13(c) Requirements. There have been disputes in six states over the application of recent public pension plan legislation to transit employees under Section 13(c).

In California, the Public Employees' Pension Reform Act raised the minimum retirement age from 55 to age 62, imposed new formulas for calculating pension benefits, including a two percent of final average

salary benefit accrual rate at age 62, and required contributions from employees to equal one-half of the normal cost of plan for new employees hired after January 1, 2013 and banned enhancements in benefits for past service, banned the creation of supplemental or replacement pension plans, and banned airtime (service credit for hypothetical employment) purchases for employees hired before January 2, 2013. The Amalgamated Transit Union objected to limits on bargaining rights. The federal Department of Labor initially ruled that the law appeared to remove mandatory and/or traditional subjects of bargaining and hence violated Section 13(c). On August 1, 2013, the federal Department of Labor issued a letter to California Governor Edmund G. Brown, Jr., urging the passage of an amendment to the Public Employees' Pension Reform Act which would exempt transit employees. On October 4, 2013, Governor Brown signed into law Assembly Bill No. 1222, which exempts employees whose interests are protected under section 13(c) from the requirements of the Public Employees' Pension Reform Act until either a Federal district court rules that the U.S. Secretary of Labor erred in determining that the application of the Public Employees' Pension Reform Act precludes certification of Federal transit funding or January 1, 2015, whichever is earlier.

In Massachusetts, an amendment to the Massachusetts Bay Transportation Authority law abolished its health care plan and transferred Massachusetts Bay Transportation Authority employees to the state Group Insurance Commission health insurance plan, and amended the Massachusetts Bay Transportation Authority retirement plan to require new hires to have 25 years of service to become eligible for a pension, payable no earlier than reaching age of 55. The Amalgamated Transit Union objected to limits on bargaining rights on health care benefits. The federal Department of Labor ruled that the law removes mandatory and/or traditional subjects of bargaining in violation of the requirements of Section 13(c). The parties reached an agreement to address the law's adverse affects. The Massachusetts Bay Transportation Authority and its unions negotiated a Health and Welfare Trust Plan which provides supplementary health benefits and insurance coverages. Legislation also was enacted that allowed for the creation of the Plan. The federal Department of Labor now approves all pending federal transit funding grants.

In Michigan, Public Act 436, the Local Financial Stability and Choice Act, provided that, when a financial emergency is found to exist, the local government can choose to either sign a consent agreement, have an emergency manager appointed, undergo a neutral evaluation process, or file for Ch. 9 bankruptcy; Public Act 54 froze wages and benefits of employees at the expiration of an existing collective bargaining agreement, required employees to pay any increased costs associated with insurance benefits, and prohibited any retroactive wage or benefit levels; Public Act 152 imposed a hard cap or 80%/20% split on health care costs, and Public Act 63 and Public Act 107 prescribed eligibility requirements regarding qualifying for revenue sharing incentives for cities, villages and townships, which included the formulation of an employee compensation plan that would mandate employee concessions. The Amalgamated Transit Union objected to limits on bargaining rights. With respect to Public Act 436, the Amalgamated Transit Union Legal Department reportedly is reviewing its impact on Section 13(c) rights, especially in light of Detroit's filing for bankruptcy. With respect to Public Act 54, the federal Department of Labor ruled that the new law restricts the rights of public employees to engage in collective bargaining and directed the parties to engage in good faith negotiations to resolve issues, the State secured an Attorney General's ruling permitting six month contract extensions to avoid adverse effects on transit workers, and supplemental agreements were negotiated with Michigan transit systems in order to overcome limitations imposed by the Act. With respect to Public Act 152, transit agencies who have existing Section 13(c) agreements in place that are inconsistent with the new law's mandates will have the ability to "opt-out" under the Act. With respect to Public Act 63 and Public Act 107, if a transit body is eligible for revenue sharing incentives, the federal Department of Labor required that the transit body must provide assurance that it will not pursue employee concessions in order to qualify.

In New Jersey, Public Law 2011, Chapter 78, mandated that active employees pay between three percent and 35 percent of the cost of health benefits based on the employee's salary and the insurance coverage selected, with minimum contributions phased in over four years. The Amalgamated Transit Union objected to limits on bargaining rights. The federal Department of Labor secured a state attorney general's opinion that the act does not apply to New Jersey transit employees.

In Ohio, Senate Bill 5 limited public employee bargaining to wages, excluded health care, sick time, or pension benefits, eliminated automatic pay increases and replaced them with potential merit raises or performance pay, and banned strikes and reduces organizing rights. The Amalgamated Transit Union objected to limits on bargaining rights. The federal Department of Labor initially ruled that Senate Bill 5 did not affect transit employees because of a special state law. In a referendum in November 2011, Senate Bill 5 was overturned.

In Wisconsin, Act 10 eliminated, for most public employees, the right to bargain over anything but a restricted range of wages, banned "Fair Share" agency fee provisions in collective bargaining agreements, compelled public sector unions to win recertification annually by a super-majority vote, and banned the payroll deduction of union membership dues. The Amalgamated Transit Union objected to limits on bargaining rights and the Wisconsin General Assembly subsequently enacted Act 32, which exempted transit employees from Wisconsin Act 10.

1.1 moves to amend S.F. No.; H.F. No. 1873, as follows:

1.2 Page 4, after line 30, insert:

1.3 "Sec. 2. Minnesota Statutes 2012, section 356.24, subdivision 1, is amended to read:

1.4 Subdivision 1. **Restriction; exceptions.** It is unlawful for a school district or other
1.5 governmental subdivision or state agency to levy taxes for or to contribute public funds to
1.6 a supplemental pension or deferred compensation plan that is established, maintained,
1.7 and operated in addition to a primary pension program for the benefit of the governmental
1.8 subdivision employees other than:

1.9 (1) to a supplemental pension plan that was established, maintained, and operated
1.10 before May 6, 1971;

1.11 (2) to a plan that provides solely for group health, hospital, disability, or death
1.12 benefits;

1.13 (3) to the individual retirement account plan established by chapter 354B;

1.14 (4) to a plan that provides solely for severance pay under section 465.72 to a retiring
1.15 or terminating employee;

1.16 (5) for employees other than personnel employed by the Board of Trustees of the
1.17 Minnesota State Colleges and Universities and covered under the Higher Education
1.18 Supplemental Retirement Plan under chapter 354C, but including city managers covered
1.19 by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph
1.20 (a), or by the defined contribution plan of the Public Employees Retirement Association
1.21 under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is
1.22 provided for in a personnel policy of the public employer or in the collective bargaining
1.23 agreement between the public employer and the exclusive representative of public
1.24 employees in an appropriate unit or in the individual employment contract between a city
1.25 and a city manager, and if for each available investment all fees and historic rates of return
1.26 for the prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an
1.27 easily comprehended document not to exceed two pages, in an amount matching employee
1.28 contributions on a dollar for dollar basis, but not to exceed an employer contribution of
1.29 one-half of the available elective deferral permitted per year per employee, under the
1.30 Internal Revenue Code:

1.31 (i) to the state of Minnesota deferred compensation plan under section 352.965;

1.32 (ii) in payment of the applicable portion of the contribution made to any investment
1.33 eligible under section 403(b) of the Internal Revenue Code, if the employing unit has
1.34 complied with any applicable pension plan provisions of the Internal Revenue Code with
1.35 respect to the tax-sheltered annuity program during the preceding calendar year; or

2.1 (iii) any other deferred compensation plan offered by the employer under section
2.2 457 of the Internal Revenue Code;

2.3 (6) for personnel employed by the Board of Trustees of the Minnesota State Colleges
2.4 and Universities and not covered by clause (5), to the supplemental retirement plan under
2.5 chapter 354C, if the supplemental plan coverage is provided for in a personnel policy
2.6 or in the collective bargaining agreement of the public employer with the exclusive
2.7 representative of the covered employees in an appropriate unit, in an amount matching
2.8 employee contributions on a dollar for dollar basis, but not to exceed an employer
2.9 contribution of \$2,700 a year for each employee;

2.10 (7) to a supplemental plan or to a governmental trust to save for postretirement
2.11 health care expenses qualified for tax-preferred treatment under the Internal Revenue
2.12 Code, if the supplemental plan coverage is provided for in a personnel policy or in the
2.13 collective bargaining agreement of a public employer with the exclusive representative of
2.14 the covered employees in an appropriate unit;

2.15 (8) to the laborers national industrial pension fund or to a laborers local pension fund
2.16 for the employees of a governmental subdivision who are covered by a collective bargaining
2.17 agreement that provides for coverage by that fund and that sets forth a fund contribution
2.18 rate, but not to exceed an employer contribution of \$5,000 per year per employee;

2.19 (9) to the plumbers and pipefitters national pension fund or to a plumbers and
2.20 pipefitters local pension fund for the employees of a governmental subdivision who are
2.21 covered by a collective bargaining agreement that provides for coverage by that fund and
2.22 that sets forth a fund contribution rate, but not to exceed an employer contribution of
2.23 \$5,000 per year per employee;

2.24 (10) to the international union of operating engineers pension fund for the employees
2.25 of a governmental subdivision who are covered by a collective bargaining agreement that
2.26 provides for coverage by that fund and that sets forth a fund contribution rate, but not to
2.27 exceed an employer contribution of \$5,000 per year per employee;

2.28 (11) to a supplemental plan organized and operated under the federal Internal
2.29 Revenue Code, as amended, that is wholly and solely funded by the employee's
2.30 accumulated sick leave, accumulated vacation leave, and accumulated severance pay;

2.31 (12) to the International Association of Machinists national pension fund for the
2.32 employees of a governmental subdivision who are covered by a collective bargaining
2.33 agreement that provides for coverage by that fund and that sets forth a fund contribution
2.34 rate, but not to exceed an employer contribution of \$5,000 per year per employee;

2.35 (13) for employees of United Hospital District, Blue Earth, to the state of Minnesota
2.36 deferred compensation program, if the employee makes a contribution, in an amount that

3.1 does not exceed the total percentage of covered salary under section 353.27, subdivisions
3.2 3 and 3a; or

3.3 (14) to the alternative retirement plans established by the Hennepin County Medical
3.4 Center under section 383B.914, subdivision 5; or

3.5 (15) to the International Brotherhood of Teamsters Central States pension plan for
3.6 fixed-route bus drivers employed by the St. Cloud Metropolitan Transit Commission who
3.7 are members of the International Brotherhood of Teamsters Local 638 by virtue of that
3.8 employment.

3.9 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 1986."

3.10 Amend the title accordingly

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1.1 moves to amend S.F. No.; H.F. No. 1873, as follows:

1.2 Page 1, after line 6, insert:

1.3 "Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2a,
1.4 is amended to read:

1.5 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees
1.6 whose salary exceeds \$425 in any month and who are not specifically excluded under
1.7 subdivision 2b or who have not been provided an option to participate under subdivision
1.8 2d, whether individually or by action of the governmental subdivision, must participate as
1.9 members of the association with retirement coverage by the general employees retirement
1.10 plan under this chapter, the public employees police and fire retirement plan under this
1.11 chapter, or the local government correctional employees retirement plan under chapter
1.12 353E, whichever applies. Membership commences as a condition of their employment on
1.13 the first day of their employment or on the first day that the eligibility criteria are met,
1.14 whichever is later. Public employees include but are not limited to:

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

1.17 (2) elected county sheriffs;

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

1.21 (i) town and city clerk or treasurer;

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

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

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

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

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

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

1.32 (7) employees of the Seaway Port Authority of Duluth who are not excluded
1.33 employees under subdivision 2b; and

1.34 (8) persons first employed as fixed-route bus drivers by the St. Cloud Metropolitan
1.35 Transit Commission after December 31, 2009, and persons first employed as

2.1 non-fixed-route bus drivers by the St. Cloud Metropolitan Transit Commission after
 2.2 December 31, 2009, and become fixed-route bus drivers after January 1, 2010.

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

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

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

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

2.18 Page 4, line 23, after "persons" insert "first "

2.19 Page 4, line 24, after "Commission" insert "before January 1, 2010, "

2.20 Renumber the sections in sequence

2.21 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No. 1873, as follows:

1.2 Page 4, delete lines 23 to 26 and insert:

1.3 "(26) persons employed as bus drivers by the St. Cloud Metropolitan Transit
1.4 Commission if the person is eligible for coverage and is covered by the International
1.5 Brotherhood of Teamsters Central States Pension Plan."

1.6 Page 4, delete line 30 and insert:

1.7 "**EFFECTIVE DATE.** This section is effective the day following final enactment
1.8 and applies retroactively to St. Cloud Metropolitan Transit Commission bus drivers who
1.9 were hired directly as fixed-route positions on or after January 1, 2010."

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1873

01/13/2014 Authored by O'Driscoll, Theis, Dorholt and Howe
The bill was referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to retirement; general employees retirement plan of the Public
1.3 Employees Retirement Association; authorizing exclusion from membership of
1.4 certain employees of the St. Cloud Metropolitan Transit Commission; amending
1.5 Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b.

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

1.7 Section 1. Minnesota Statutes 2013 Supplement, section 353.01, subdivision 2b,
1.8 is amended to read:

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

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

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

1.18 (3) election officers or election judges;

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

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

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

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

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

2.20 (9) employees of a governmental subdivision who have not reached the age of
2.21 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time
2.22 basis at an accredited school, college, or university in an undergraduate, graduate, or
2.23 professional-technical program, or a public or charter high school;

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

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

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

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

3.1 (14) public hospital employees who elected not to participate as members of the
3.2 association before 1972 and who did not elect to participate from July 1, 1988, to October
3.3 1, 1988;

3.4 (15) except as provided in section 353.86, volunteer ambulance service personnel, as
3.5 defined in subdivision 35, but persons who serve as volunteer ambulance service personnel
3.6 may still qualify as public employees under subdivision 2 and may be members of the
3.7 Public Employees Retirement Association and participants in the general employees
3.8 retirement plan or the public employees police and fire plan, whichever applies, on the
3.9 basis of compensation received from public employment service other than service as
3.10 volunteer ambulance service personnel;

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

3.18 (17) pipefitters and associated trades personnel employed by Independent School
3.19 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the
3.20 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,
3.21 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter
3.22 241, article 2, section 12;

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

3.30 (19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,
3.31 painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul
3.32 or Independent School District No. 625, St. Paul, with coverage under a collective
3.33 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,
3.34 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324
3.35 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities
3.36 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if

4.1 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special
4.2 Session chapter 10, article 10, section 6;

4.3 (20) plumbers who are employed by the Metropolitan Airports Commission, with
4.4 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,
4.5 who either were first employed after May 1, 2001, or if first employed before May 2,
4.6 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article
4.7 10, section 6;

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

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

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

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

4.21 (25) persons appointed to serve on a board or commission of a governmental
4.22 subdivision or an instrumentality thereof; and

4.23 (26) persons employed as full-time fixed-route bus drivers by the St. Cloud
4.24 Metropolitan Transit Commission who are members of the International Brotherhood
4.25 of Teamsters Local 638 and who are, by virtue of that employment, members of the
4.26 International Brotherhood of Teamsters Central States pension plan.

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

4.30 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 1986.