



H.F. 1521

(Hoppe)

S.F. 1373

(Pappas)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-General; MSRS-Unclassified
Relevant Provisions of Law: Minnesota Statutes, Sections 352.01 and 352D.02
General Nature of Proposal: Clarifying coverage for part-time legislative employees.
Date of Summary: March 13, 2015

Specific Proposed Changes

- Clarifies retirement coverage in the MSRS-General for legislative employees hired on more than a session-only or temporary basis; and
- Extends eligibility for retirement coverage in MSRS-Unclassified to part-time legislative employees, retroactive to March 28, 2013.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of clarification of current MSRS-General exclusion of temporary or session-only legislative employees.
2. Appropriateness of including part-time legislative employees in alternative MSRS-Unclassified program coverage.
3. Appropriateness of the current inclusion in MSRS-General coverage for employees hired to conduct special investigations.
4. Appropriateness of the retroactive effective date.

Potential Amendments

H1521-1A would eliminate the portion of the inclusion in Minnesota Statutes, Section 352.01, Subdivision 2a, Paragraph (a), Clause (7), relating to special investigation personnel, which appears to be archaic.

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TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JLM*
RE: H.F. 1521 (Hoppe); S.F. 1373 (Pappas): MSRS, MSRS-Unclassified; Clarification of Coverage for Part-Time Legislative Employees
DATE: March 13, 2015

Summary of H.F. 1521 (Hoppe); S.F. 1373 (Pappas)

H.F. 1521 (Hoppe); S.F. 1373 (Pappas) amends Minnesota Statutes, Section 352.01, Subdivisions 2a and 2b, the membership inclusion and exclusion portions of the law governing the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), and Minnesota Statutes, Section 352D.02, Subdivision 1, the membership inclusion portion of the law governing the MSRS Unclassified Employees Retirement Program (MSRS-Unclassified) by clarifying that retirement coverage exclusions for MSRS-General apply to session-only legislative employees and legislative employees whose legislative employment is duration-limited and that part-time legislative employees are eligible for MSRS-Unclassified coverage.

Background Information on Relevant Topics

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

- **Attachment A:** Background information on the MSRS Unclassified Employees Retirement Program, including a summary of legislative enactments relating to program coverage.
- **Attachment B:** Background information on the membership inclusions and exclusions for the General State Employees Retirement Plan of the Minnesota State Retirement System.

Discussion and Analysis

H.F. 1521 (Hoppe); S.F. 1373 (Pappas) clarifies retirement coverage in the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for legislative employees hired on more than a session-only or temporary basis and extends eligibility for retirement coverage in the MSRS Unclassified Employees Retirement Program (MSRS-Unclassified) to part-time legislative employees, retroactive to March 28, 2013.

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

1. Appropriateness of Clarification of Current MSRS-General Exclusion of Temporary or Session-Only Legislative Employees. The policy issue is the appropriateness of the current exclusion from General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) coverage for temporary legislative employees that is clarified in the proposed legislation to also apply to legislative session-only employees. Minnesota Statutes, Section 352.01, Subdivision 2b, excludes from MSRS-General coverage employees appointed to temporary employment by the Legislative Branch. The proposed legislation clarifies the exclusion by applying it to session-only legislative employees also. The exclusion from retirement coverage for temporary and session-only employees is presumably advantageous to the Legislature from a budgetary standpoint and may be advantageous to temporary or session-only legislative employees who value greater take-home pay than retirement coverage. The current contribution rate structure for MSRS-General is a 5.5% of salary contribution by members and a 5.5% of salary contribution by employers.
2. Appropriateness of Including Part-Time Legislative Employees in Alternative MSRS-Unclassified Program Coverage. The policy issue is the appropriateness of allowing part-time legislative employees to elect to have retirement coverage by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) as an alternative to MSRS General State Employees Retirement Plan (MSRS-General) coverage. Although part-time legislative employees (persons employed for less than full-time but without limitation on the duration of their employment at appointment) are not authorized by Minnesota Statutes, Section 352D.02, Subdivision 1, Paragraph (b), Clause (6), to participate in the MSRS-Unclassified Program, actual

practice within the joint agencies under the jurisdiction of the Legislative Coordinating Commission, and presumably the House of Representatives and the Senate also, has been to include part-time legislative employees in the MSRS-Unclassified option. The proposed legislation would make the law consistent with actual practice. If the Commission chooses not to make the update in Minnesota Statutes, Section 352D.02, Subdivision 1, Paragraph (b), Clause (6), the affected current part-time employees would have MSRS-General coverage rather than the option of either MSRS-General or MSRS-Unclassified coverage for past employment as well as future employment.

3. Appropriateness of the Current Inclusion in MSRS-General Coverage for Employees Hired to Conduct Special Investigations. The policy issue is the continued desirability of the portion of Minnesota Statutes, Section 352.01, Subdivision 2a, Paragraph (a), Clause (7), that includes in coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) persons employed by the Legislative Branch to conduct a special enquiry, investigation, examination, or installation. This coverage mandate applies no matter how short the special employment may last. This inclusion dates to 1961 (Ex. Sess. Laws 1961, Ch. 67, Sec. 1), when the language of the former exclusion was moved to the inclusion provisions. The change logically was a response to some change in the pattern of legislative employment that occurred in the late 1950s or early 1960s, but it is impossible at this date to reconstruct the rationale for the change, other than to note it occurred prior to the creation of the Senate Counsel and House Research offices and the broad employment of a professional nonpartisan legislative staff and may reflect a practice of utilizing Executive Branch employees rather than non-public personnel for specific projects or investigations and an attempt not to create a gap in retirement coverage for these "borrowed" personnel. The portion of the inclusion in Minnesota Statutes, Section 352.01, Subdivision 2a, Paragraph (a), Clause (7), relating to special investigation personnel, appears to be archaic.
 - If the Commission concurs that the portion of the clause is obsolete, **Amendment H1521-1A** would eliminate it.
4. Appropriateness of the Retroactive Effective Date. The policy issue is the appropriateness of utilizing a retroactive effective date for the proposed legislation. The effective date is retroactive to March 28, 2013, which apparently is the hiring date of the least recently hired part-time legislative employee currently in the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) under the current, but unauthorized, legislative branch practice. If that date does not cover all applicable legislative staff, the date may need to be revised. The appropriateness of a retroactive date undoubtedly lies in a policy or desire of the legislative branch not to overturn or disappoint existing personnel and their expectations about benefit coverage from current practice that subsequently was determined to be contrary to the applicable statute.

Background Information on the Unclassified State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Unclassified)

1. In General. The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) was established in 1971 (Laws 1971, Ch. 604), and is governed by Minnesota Statutes, Chapter 352D.
2. Establishment. MSRS-Unclassified is a defined contribution plan established by Minnesota Statutes, Chapter 352D. The retirement program was developed on behalf of the commissioners of the various departments in the Executive Branch in state government. It was premised on the unattractiveness in 1971 of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for upper echelon officials in state government who were unlikely to spend enough time in state employment to meet the MSRS-General vesting provision of ten years of service then applicable in 1971. It was intended to be an attractive fringe benefit to aid in the recruitment of department heads in state government. Since 1971, there have been numerous expansions in program coverage and modifications in coverage after established, as summarized in Item 12.
3. Program Coverage. The program currently covers a number of state employees or officers in the unclassified service of the State of Minnesota on either a mandatory or on an optional basis. The individuals specified in (a), (e), and (g), if first elected after June 30, 1997, below are members of the program on a mandatory basis and the remaining individuals have the option to elect to be members of the program rather than being a member of MSRS-General. The program membership includes:
 - a. the Governor, Lieutenant Governor, Secretary of State, State Auditor, and Attorney General;
 - b. an employee in the office of the Governor, Lt. Governor, Secretary of State, State Auditor, or Attorney General;
 - c. an employee of the State Board of Investment;
 - d. the head of a department, a division, or an agency created by statute in the unclassified service;
 - e. a member of the legislature;
 - f. a permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
 - g. the regional administrator or executive director of the Metropolitan Council, its general counsel, division directors, operations managers, and other positions as designated by the council;
 - h. the executive director, associate executive director of the Higher Education Services Office in the unclassified service;
 - i. the clerk of the appellate court;
 - j. the chief executive officers of correctional facilities, hospitals, and nursing homes;
 - k. an employee of the state ceremonial house;
 - l. an employee of the Minnesota Educational Computing Corporation;
 - m. an employee of the World Trade Center board;
 - n. an employee of the State Lottery board; and
 - o. a judge whose service has exceeded the 24-year service credit limit of Minn. Stat. Sec. 490.121, Subd. 22.
4. MSRS-Unclassified Demographic Information.

As of June 30, 2006:

Number of active participants	1,908
Average salary of active participants	\$62,441
Average contribution by and on behalf of participants	\$6,244 (\$2,498 member; \$3,746 employer)
Number of inactive participants	1,563
Average account balance per inactive participant.....	\$60,254
Total program assets	\$259,861,273

As of June 30, 2010:

Number of active participants	1,493
Average salary of active participants	\$70,537
Average contribution by and on behalf of participants	\$7,759 (\$3,527 member; \$4,232 employer)
Average account balance per active participant.....	\$107,377
Average age of active participants	48.1 years
Average service of active participants	11.3 years
Number of inactive participants	1,705
Average account balance per inactive participant.....	\$53,559
Total program assets	\$253,388,000

As of June 30, 2014:

Number of active participants	1,172
Average salary of active participants	\$79,236
Average contribution by and on behalf of participants	\$9,112 (\$4,358 member; \$4,754 employer)
Average account balance per active participant.....	\$142,258
Average age of active participants	45.8 years
Average service of active participants	10.3 years
Number of inactive participants	2,441
Average account balance per inactive participant.....	\$65,046
Total program assets	\$325,737,000

5. Plan Governance and Administration. An 11-member board of directors, the Minnesota State Retirement System (MSRS) board of directors, chaired by a board member elected from its membership, performs the policymaking function of MSRS-Unclassified. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration or investment of the Unclassified Program. The MSRS staff, with 100 employees in 2012, executes the recordkeeping and the communication functions of the plan. The State Board of Investment and its staff perform the investment function of the plan. As of 2012, the State Board of Investment is supported by 22 staff members, two consultant firms, two custodian banks, and a 17-member Investment Advisory Council to advise the board and its staff on investment-related matters.
6. Contribution Rates and Collection. Statute requires that the employee contribution rate to the Unclassified Program must match the employee contribution rate to MSRS-General, which is currently 5% of gross salary, except for the long service judges covered by the Unclassified Program, where the member contribution is 8% of salary. In addition, the employer must contribute 6% of the employee gross salary, except for the long service judges covered by the program, where there is no employer contribution to the Unclassified Program. Employee and employer contributions, which are not taxable, are deducted or collected each payroll period and credited to the employee's account each month. The contributions generally are collected electronically by MSRS. An 8.5% fee applies for a late collection or payment.
7. Administrative Expenses. All administrative and investment expenses are borne by participants, who are charged a fee based on the size of their individual account (\$12 annually for an account balance under \$10,000, \$24 annually for an account balance between \$10,000 and \$50,000, and \$36 annually for an account balance over \$50,000) on contributions made after July 1, 1992. The 2011 program administrative expenses were \$174,000, or \$53.23 per active or inactive participant, compared to 2011 MSRS-General administrative expenses which were \$6,064,000, or \$60.85 per active, retired, or inactive participant.
8. Plan Investments. The plan investments are directed individually by each participant, who makes the actual choice in the composition of investment securities in the person's own account in the Minnesota Supplemental Investment Fund, a functional equivalent of a family of mutual funds. Under Minnesota Statutes, Section 11A.17, the investments are shares in one or a combination of the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account, and the common stock index account. The contributions are invested within the month they are received. Actual investments are done through outside vendors who enter into competitively bid contracts with the State Board of Investment for five years. The contracts are reviewed periodically by the State Board of Investment.
9. Plan Communication, New Member Processing and Benefit Counseling. MSRS provides information to plan members through three newsletters each year, a quarterly benefit statement, a plan handbook, and financial reports each year. MSRS also presents to every new member a welcome letter, forms for membership, and the plan handbook. Finally, for an employee approaching retirement, MSRS provides an estimate of the person's benefit, the tax impact on the benefit if the participant either opts for a lump sum payment or an annuity. An annuity is purchased from the MSRS-General Plan fund using the accumulated balance of the participant's account. An annuity may be purchased at age 55 or older.
10. Transfers from Prior Defined Benefit Plans to MSRS-Unclassified. Minnesota Statutes, Section 352D.12, a provision of MSRS-Unclassified law, permits an MSRS-Unclassified Program participant with prior service in MSRS-General, the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Teachers Retirement Association (TRA), one of the first class city teacher retirement fund associations, or the Minneapolis Employees Retirement Fund (MERF), to transfer the prior member contributions and an equivalent amount of employer contributions, plus interest, from the defined benefit plan to MSRS-Unclassified. MSRS-Unclassified Program participants who had taken a refund from a defined benefit plan are also permitted to repay that refund and transfer the refund amount and equivalent employer contributions, plus interest.

Minnesota Statutes, Section 352D.12, was initially enacted in 1985 (1st Spec. Sess. Laws 1985, Ch. 7, Sec. 9). The 1985 provision was a simpler version of the current statutory provision. The 1985 provision was the last surviving provision of a broader proposed 1985 reformulation of the MSRS-Unclassified Program contained in 1985 Session S.F. 489 (Moe, D.M.) and 1985 Session H.F. 740 (Simoneau), which would have expanded the membership of the MSRS-Unclassified Program to include court employees other than judges, all Metropolitan Council employees other than MTC bus drivers and MWCC tradesmen, local elected officials earning at least \$2,400 annually, elected county attorneys and their deputies, and employees of the League of Minnesota Cities, the Association of Minnesota Counties, the Metropolitan Inter-County Association, and the Minnesota Municipal Utilities Association, would have limited the ability of MSRS-Unclassified Program participants to elect an MSRS-General retirement annuity in lieu of an MSRS-Unclassified Program benefit, and permitted the transfer of past defined benefit plan contribution accumulations to the MSRS-Unclassified Program. The proposed MSRS-Unclassified

Program reformulation was not ultimately recommended by the Commission beyond the prior contribution transfer provision.

Minnesota Statutes, Section 352D.12, was subsequently amended in 1992 (Laws 1992, Ch. 432, Art. 2, Sec. 1; Laws 1992, Ch. 598, Art. 1, Sec. 12). The first 1992 change added a sentence to the refund repayment authorization clarifying the timing for the crediting of the refund repayment, presumably for purposes of calculating interest on the amounts for transfer to MSRS-Unclassified. The second 1992 change increased the interest payable on a refund repayment to 8.5% annual compound interest.

Minnesota Statutes, Section 352D.12, was again revised in 1998 (Laws 1998, Ch. 366, Sec. 74; Laws 1998, Ch. 390, Art. 6, Sec. 1). The identical changes, one in the State Departments Appropriations Bill and the other in the Omnibus Retirement Bill, covered the transfer of past contributions from the Legislators and Elective State Officers Retirement Plans to MSRS-Unclassified for legislators and constitutional officers newly covered by MSRS-Unclassified. Laws 1998, Chapter 366, Section 12, the State Departments Appropriations Bill, also included appropriations to cover the general fund exposure for the transfers. By 2005, the transfer language had become obsolete and was removed by First Special Session Laws 2005, Chapter 8, Article 10, Section 37.

11. Option to Return to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in MSRS-Unclassified other than a legislator, a judge, or an elected state officer who became a state employee before July 1, 2010, with at least ten years of state service, or who became a state employee after June 30, 2010, with no more than seven years of state service, is permitted to elect to transfer coverage to MSRS-General, a defined benefit plan governed by Minnesota Statutes, Chapter 352. The MSRS-General retirement annuity is 1.7% of a member's highest five successive years average salary per year of covered service, payable in full at age 65 and reduced actuarially if the annuity commenced before age 65, with the earliest reduced benefit retirement age of 55.

Laws 2010, Chapter 359, Article 4, Section 7, clarified in the language of the law, consistent with how MSRS has long interpreted the application of the provision to legislators, elected state officers, and judges. These three groups are not permitted to transfer to MSRS-General, regardless of length of service. Regarding judges, most individuals who become judges do so relatively late in their careers. To permit a retirement benefit deemed reasonable to be generated, the Judges Plan, a defined benefit plan, has a high service accrual rate. However, when an individual becomes a judge relatively early and provides long service, that accrual rate could lead to an annuity that is a very high portion of salary. The plan has long had limits to cap benefit accrual. In 2000, the previous benefit maximum (70% of annual salary in the year immediately preceding retirement) was converted to a length of service maximum (24 years of service). If a judge continued in employment beyond 24 years, no further employee contributions or service accrual was permitted in the Judges Plan. Instead, an account is created in the MSRS-Unclassified Program for the judge, funded by employee contributions. Given this apparent intention of limiting further participation in a defined benefit plan, it would be inconsistent with that policy to permit a long-service judge to opt out of the MSRS-Unclassified Program and enter MSRS-General, another defined benefit plan. Regarding legislators and elected state officers, the Legislature decided in 1997 that defined contribution coverage, rather than defined benefit coverage, was appropriate for elected officials. In 1997, as part of major benefit increase legislation assembled by MSRS, the Public Employees Retirement Association (PERA), and TRA, retirement coverage for all newly elected legislators and for sitting legislators who elected to change coverage was provided by MSRS-Unclassified. A comparable change was made for state constitutional officers. The legislation (Laws 1997, Ch. 233, Art. 2) also added Social Security coverage for legislators and constitutional officers and included a required study by the Legislative Commission on Pensions and Retirement of the appropriateness of the coverage change (see Laws 1997, Ch. 233, Art. 2, Sec. 16.) The Commission completed the mandated study during the 1997-1998 Interim and concluded that the change was appropriate and recommended no change in the 1997 coverage change.

The defined benefit plan coverage election authorization in the MSRS-Unclassified Program allows various MSRS-Unclassified Program participants to adversely select or elect against the MSRS-General pension plan, with a significant potential benefit gain for the participant and a significant potential risk of the creation of an unfunded actuarial accrued liability in the MSRS-General Plan. The option to transfer coverage from the MSRS-Unclassified Program to defined benefit plan coverage by MSRS-General has an actuarial cost for MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants as of July 1, 2010, was 11.52% of covered pay, compared to the normal cost for MSRS-General active members as of the same date of 7.77% of covered pay, which is a difference of 3.75% of covered pay.

12. Summary of Program Coverage Inclusion Changes.

- In 1971 (Laws 1971, Ch. 604, Sec. 2), as part of the initial enactment of the retirement program, the coverage of the program as an alternative to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) included full-time employees of the Governor,

Secretary of State, State Auditor, State Treasurer in the unclassified service; full-time employees of the State Board of Investment in the unclassified service, any department division or agency head in the Executive Branch, a deputy or employee listed in Minnesota Statutes, Chapter 15A; and permanent full-time unclassified legislative employees.

- In 1973 (Laws 1973, Ch. 624, Sec. 3), the full-time requirements for employees of the constitutional officers or State Board of Investment were eliminated, employees of the Lieutenant Governor, Attorney General, and Revisor of Statutes were added to coverage eligibility, and part-time legislative employees with an account in the Minnesota Supplemental Investment Fund, whether or not eligible for MSRS-General coverage, were added to coverage eligibility, and assistant department heads were added to coverage eligibility.
- In 1976 (Laws 1973, Ch. 329, Sec. 11), the 1973 inclusion of assistant department heads was clarified as the assistant department head, but any state employee classified under statute at the deputy or assistant department, agency head, or director level were included in memberships eligibility, and the chair, chief administrator and nine upper management level employees at the Metropolitan Council or the Metropolitan Waste Control Commission were included in membership eligibility.
- In 1977 (Laws 1977, Ch. 429, Sec. 17), the executive director, assistant executive director, and nine upper management employees of the higher education coordinating board in the unclassified service were included in membership eligibility.
- In 1980 (Laws 1980, Ch. 607, Art. 14, Sec. 37), the department head and deputy or assistant department head inclusions were restructured grammatically without apparent substantive effect, the part-time legislative employee inclusion was revised to apply only to temporary legislative employees, and acting department heads were included in membership eligibility.
- In 1981 (Laws 1981, Ch. 224, Sec. 68), the Minnesota Supreme Court clerk was included in membership eligibility.
- In 1982 (Laws 1982, Ch. 399, Sec. 1), employees principally employed at the state ceremonial house were included in membership eligibility. Also in 1982 (Laws 1982, Ch. 560, Sec. 56), the chief executive officers of Department of Correction correctional facilities or Department of Welfare hospitals and nursing homes were included in membership eligibility.
- In 1983 (Laws 1983, Ch. 247, Sec. 138), the inclusion of the State Supreme Court clerk was revised as the clerk of the appellate courts.
- In 1984 (Laws 1984, Ch. 619, Sec. 14), employees of the Minnesota educational computing corporation were included in membership eligibility. Also in 1984, (Laws 1984, Ch. 654, Art. 2, Sec. 124), employees of the World Trade Center board were included in membership eligibility.
- In 1985 (1st Spec. Sess. Laws 1985, Ch. 10, Sec. 88), the chair, the executive director and the top three division directors of the Regional Transit Board, and the chief administrator of the Metropolitan Transit Commission were included in membership eligibility.
- In 1986 (Laws 1986, Ch. 458, Sec. 7), the chancellor, the state university presidents and the unclassified service managerial employees of the Minnesota State Colleges and Universities System (MnSCU) were included in membership eligibility.
- In 1990 (Laws 1990, Ch. 570, Art. 4, Sec. 1), employees of the State Lottery covered by the managerial employment plan were included in membership eligibility.
- In 1991 (Laws 1991, Ch. 317, Sec. 1), employees who participated in the program were authorized to continue in that coverage upon subsequent employment in an unlimited, full-time, unclassified position in state employment.
- In 1992 (Laws 1992, Ch. 446, Sec. 3-4), the inclusion of higher education coordinating board employees and MnSCU upper management employees was modified to accommodate an alternative election of the MnSCU-Individual Retirement Account Plan (MnSCU-IRAP).
- In 1993 (Laws 1993, Ch. 239, Art. 1, Sec. 1-3), employees of the higher education board and acting, temporary or interim upper MnSCU management employees were included in membership eligibility as an alternative to MnSCU-IRAP coverage.
- In 1994 (Laws 1994, Ch. 628, Art. 1, Sec. 3, and Art. 3, Sec. 30), the inclusions for the Metropolitan Council were revised, with coverage for the chair of the Metropolitan Council eliminated, and re-specified for the Metropolitan Council, regional administrator, executive director, general counsel, division director, operation managers, and other positions up to a total of 27 positions.
- In 1995 (Laws 1995, Ch. 141, Art. 14, Sec. 2), the 1992 inclusions related to the State Board of Technical Colleges and the Higher Education Board were eliminated and the 1994 removal of the chair of the Metropolitan Council was revised, re-including the Metropolitan Council chair in membership eligibility.

- In 1997 (Laws 1997, Ch. 233, Art. 2, Sec. 3), constitutional officers and legislators who were first elected after July 1, 1997, or who were elected before July 1, 1997, and elected the coverage were included in membership coverage.
- In 2000 (Laws 2000, Ch. 260, Sec. 56; Ch. 457, Sec. 7-8; and Ch. 461, Art. 3, Sec. 3 and Art. 18, Sec. 1), the inclusion of employees of the World Trade Center board was eliminated, the requirement for inclusion that legislative employees be permanent was replaced with the condition that legislative employees be appointed without a duration limit on that employment, the requirement that changes from the initial designations of Metropolitan Council employees included be made only with the approval of the MSRS board of directors, and judges with judicial service in excess of the Judges Retirement Plan service credit maximum were mandated post-service credit limit inclusion in the program.
- In 2002 (Laws 2002, Ch. 379, Art. 1, Sec. 77), a reference to the State Lottery was clarified by eliminating the specification of “board.”
- In 2006 (Laws 2006, Ch. 271, Art. 10, Sec. 32), an obsolete reference to the 1997-1998 election of retirement coverage by constitutional officers or legislators was eliminated.
- In 2007 (Laws 2007, Ch. 54, Art. 5, Sec. 7; and Ch. 134, Art. 2, Sec. 10), the state court administrator and the judicial district administrators, employees of the Agricultural Utilization Research Institute, employees of Minnesota Technology Incorporated, MnSCU faculty or unclassified administrators with pre-1995 employment by the state university system or state community college system and pre-1995 MSRS-Unclassified coverage, and pre-1995 state employees who are employed by MnSCU as unclassified service administrators were included in membership eligibility, and the inclusion of employees of the Minnesota Educational Computing Corporation was eliminated.

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Background Information on MSRS-General Membership Inclusions and Exclusions

1. Current Membership Inclusions. The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) includes in its retirement coverage employees and officers in the classified and unclassified service of the State of Minnesota, including most metropolitan agencies. There are 19 specific inclusions primarily relating to quasi-State agencies, the University of Minnesota, the Minnesota State Colleges and Universities System (MnSCU), and personnel involved in past retirement consolidations or in employment privatizations or restructurings. Optional membership is limited to gubernatorial or lieutenant gubernatorial appointments. There are 35 specific exclusions, primarily related to persons with other Minnesota public pension plan membership and persons performing irregular, very incidental, or very temporary employment services. (*352.01, Subd. 2, 2a, 2b; 352.021, Subd. 2*)
2. Current Optional Memberships. Optional membership applies to a person who is appointed to their employment position by the Governor or by the Lieutenant Governor if the person is not covered by MSRS-General at the time of the appointment and requests an exemption from MSRS-General coverage in writing within 90 days after the date of entering the appointed position and continuing for the period of that employment. (*352.021, Subd. 2*)
3. Current Membership Exclusions. Exclusions from MSRS-General membership are employees of the University of Minnesota excluded from coverage by the Board of Regents, or the MnSCU Board of Trustees, persons covered by the Teachers Retirement Association (TRA), the State Patrol Retirement Plan, the Duluth Teachers Retirement Fund Association (DTRFA), or the St. Paul Teachers Retirement Fund Association (SPTRFA), National Guard personnel on permanent peacetime duty covered by a federal retirement system, election officers, independent contractors and employees of independent contractors, temporary legislative employees, jurors and court employees who are not in the judicial branch, patient and inmate help in state institutions, persons employed in professional services, intermittent state board or commission members, temporary State Fair employees, emergency employees, various trainee and temporary employees, examination monitors, temporary Adjutant General employees, Sibley House employees, religious order personnel who are exempt from Social Security coverage, trades personnel employed by the Environmental Services Division of the Metropolitan Council, Metropolitan Transit police officers, Department of Military Affairs firefighters, and aliens with short duration work permits.
4. Historical Development of MSRS-General Membership Inclusions and Exclusions.
 - In 1929 (Laws 1929, Ch. 191, Sec. 1), "State Employee" was defined as any person holding a state office or regularly employed by the state annually or monthly in whatever capacity if paid on a State Auditor warrant or from departmental income or fees, except court commissioners, supreme court commissioners, district judges, or higher education institution presidents or deans, professors, or instructors. Excluded from coverage were temporary employees or employees employed for a definite period of less than six months. Membership was optional for state employees with that status on July 1, 1929.
 - In 1933 (Laws 1933, Ch. 326, Sec. 1-2), the mandatory coverage provisions were augmented with the addition of a requirement that any state employee who was employed by the state for more than six months continuously was required to become a member even if classified as a temporary employee or otherwise and the addition of a requirement that the department head to cause deductions from a post-July 1, 1929, new state employee's salary.
 - In 1935 (Laws 1935, Ch. 238, Sec. 1-2), requirements identical to the 1933 enactment were again enacted.
 - In 1939 (Laws 1939, Ch. 432, Sec. 1), the definition of "State Employee" was modified by the addition of exclusions from plan membership for elective state officers, tax appeals board members, civil service board members, members of any board or commission with intermittent service and per diem compensation, teachers in state institutions with eligibility for Teachers Retirement Association (TRA) coverage, and students employed by the state incidental to and in furtherance of their education. Also, Department of Education employees who are eligible for TRA membership were given the option of State Employees Retirement Association (SERA) membership, with those Department of Education employees with past SERA coverage who elect TRA coverage granted a deferred annuity or refund right.
 - In 1941 (Laws 1941, Ch. 389, Sec. 1-2), the exclusions from SERA membership was expanded to include temporary state employees as defined by the State Civil Service Act and the exclusion of

probationary state employees and temporary unclassified service state employees was clarified as applicable only to the initial six continuous full months of employment and permanent seasonal employees in the classified or unclassified service were specified as not being temporary employees. State employees on July 1, 1929, who elected to be excluded from SERA before July 2, 1931, were required to become SERA members on July 1, 1941.

- In 1943 (Laws 1943, Ch. 622, Sec. 1), the inclusions in SERA membership were clarified with the specification that permanent unclassified state service employees were members upon acceptance of employment, that classified state service employees were members upon the completion of six months of continuous state employment no matter the employee's classification, and that any former state employee who was a SERA member and who did not take a refund were members upon reemployment immediately, regardless of classification and the SERA exclusions were expanded to apply to physicians, dentists, clergy, and other professionals retained by the state for their professional duties when compensated on a per diem basis.
- In 1945 (Laws 1945, Ch. 38, Sec. 1; Ch. 284, Sec. 1-2), the SERA membership inclusions were expanded to Minnesota Historical Society employees, Disabled American Veterans-Minnesota Department employees if paid on a State Auditor warrant, effective retroactively to the date SERA members contributions began, and SERA members employed as session employees by the Minnesota Legislature and the "State Employee" definition was completely restructured, with the plan membership inclusions specified as employees in the classified or unclassified service of the state, Minnesota Historical Society employees, State Horticultural Society employees, Disabled American Veterans-Department of Minnesota employees, and current SERA members employed as legislative session employees or other temporary legislative committee or commission employees and with plan membership exclusions specified as elective state officers, students employed by the state incidental to a furthering their education, employees eligible for TRA membership other than Department of education employees exercising their option to be or remain SERA members, University of Minnesota employees excluded by Board of Regents action, National Guard employees unless assigned to permanent peacetime duty, election officers, employees of contractors in state public work, temporary legislative employees, court employees other than Supreme Court employees and other than Industrial Commission referees and adjustors, patient and inmate state institution help, professional service providers for services incidental to their regular professional duties and compensated on a per diem basis, Sibley House Association employees, General Army of the Republic and Ladies of the G. A. R. employees, contract operators and drivers retained by the state, members of various state boards or commissions, state highway patrolmen, and persons aged 65 upon becoming otherwise entitled to members.
- In 1949 (Laws 1949, Ch. 644, Sec. 1), the SERA plan membership exclusions were amended to provide an exception to the legislative employment exclusion for permanent employees of the Legislative Research Committee who exercise their membership option within six months of employment.
- In 1951 (Laws 1951, Ch. 441, Sec. 2), the SERA plan membership inclusions were expanded to Adjutant General employees paid from federal funds, but not eligible for federal retirement coverage and employees of state teachers colleges in the college activities program, the student worker membership exclusion was revised to apply unless the Board of Regents at the University of Minnesota or the teacher college board approve the person for plan membership, and an exclusion was added for emergency employees in the classified state service.
- In 1953 (Laws 1953, Ch. 320, Sec. 1, 3), special authority for plan membership was extended to a former state employee who was elected as a constitutional officer.
- In 1955 (Laws 1955, Ch. 239, Sec. 1), the SERA plan exclusion for various boards and commissions members was modified to not apply to the secretary, treasurer, or secretary-treasurer of a state board where the compensation exceeded \$500 per year.
- In 1957 (Laws 1957, Ch. 928, Sec. 1, 7), the "State Employee" definition was again restructured, with a separate inclusion set of clauses and with a separate exclusion set of clauses. SERA plan inclusions were expanded to armory building commission employees, Minnesota-Wisconsin-Minneapolis-St. Paul Survival Plan Project employees, and permanent legislative employees. SERA plan exclusions were increased to labor service employees who were covered by Social Security and who were paid on an hourly basis, state game wardens, state employees aged over 60 with less than six years of plan membership, and state government department heads appointed by the Governor if requested by the department head.
- In 1959 (Ex. Sess. Laws 1959, Ch. 6, Sec. 1, 6), two additional SERA plan inclusions, trainees in a full-time established training program if eligible for an immediate appointment upon completion of training and employees of the Minneapolis deputy motor vehicle registrar, were added and four additional SERA plan exclusions, temporary employees in the classified service, seasonal help in

the unclassified service employed by the Motor Vehicle Division or the Income Tax Division of the Tax Department, trainees other than the program newly included in 1959, and persons employed on a fee compensation basis.

- In 1961 (Ex. Sess. Laws 1961, Ch. 67, Sec. 1), the legislative branch SERA plan inclusions and exclusions were revised, clarifying the two applicable provisions, by including permanent legislative research committee employees with the permanent legislative employee inclusion provision and by restating the legislative employee exclusion provision as applicable to legislative officers and temporary legislative employees and legislative research committee employees employed intermittently on an on-call basis. The State Fair temporary employee exclusion was no longer restricted to the period of the State Fair, but applied from August 1 to September 30 annually. Additional exclusions were specified for state employees receiving a year of service credit from a first class city teacher retirement fund association, for temporary employees of the Adjutant General related to the Camp Ripley field training activities, and for chaplains and nuns who took a vow of poverty.
- In 1963 (Laws 1963, Ch. 383, Sec. 1), the "State Employee" definition was amended by more appropriately repositioning the labor service employee exclusion, by restricting the Disabled American Veterans and Veterans of Foreign Wars employee inclusion to employees employed before July 1, 1963, by eliminating the Minnesota-Wisconsin-Minneapolis-St. Paul Survival Plan Project employee inclusion, by limiting the emergency employee exclusion to emergency employees shifted to provisional or probationary employee status without an interruption of duties, and by recasting the state game warden exclusion as a state police officer exclusion.
- In 1965 (Laws 1965, Ch. 230, Sec. 1; and Ch. 590, Sec. 1), the SERA plan inclusions and exclusions were divided into three subdivisions, the inclusion subdivision was amended by replacing the Minneapolis Deputy Motor Vehicle Registrar employees with Minnesota Safety Council employees, and the exclusion subdivision was amended by clarifying the board and commissioner secretary exclusion applies if the secretary is prohibited by law to serve multiple terms totaling ten years of service, by adding the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its secretary, by extending the temporary State Fair employee exclusion to a July 1 to October 15 period, by amending the Adjutant General employee exclusion to employees employed on an unlimited basis for any training facility and not just Fort Ripley, by excluding student employees at a state junior college, and by adding exclusions for department, commission, or agency examination monitors, for most appeals tribunal members, and for fact-finding commission members, arbitrators, or labor referees.
- In 1967 (Ex. Sess. Laws 1967, Ch. , Sec. 1-2), the National Guard exclusion was clarified to apply only if covered by a federal retirement system, the emergency employee exclusion was modified to not apply to an employee with multiple emergency appointments with no service separation greater than 10 days in each instance with retroactive coverage, the labor service employees exclusion was modified to apply to employees who are entitled to a pay differential when not entitled to sick leave, holiday pay, or insurance coverage, and two exclusions were added for temporary employees in economic distress rehabilitation programs and for full-time students employed by the Minnesota Historical Society employed intermittently during a portion of the year and full-time during summer months.
- In 1971 (Laws 1971, Ch. 12, Sec. 1), the MSRS General State Employees Retirement Plan exclusion for emergency employee exclusion was modified to apply only to employees who do not become provisional or probationary employees within the same pay period and an exclusion was added for temporary employees of the Metropolitan Council or its boards who are employed for no more than six months.
- In 1976 (Laws 1976, Ch. 329, Sec. 2), the MSRS-General exclusion provision was amended to clarify the legislative branch temporary employee exclusion by replacing the legislative research committee temporary exclusion with a general committee or commission temporary employee exclusion, the temporary employee exclusion was extended to all temporary unclassified service employees appointed for a definite period of no more than six months and employed less than six months in any one year, the seasonal help exclusion was narrowed to apply only to the revenue department, the labor service employee exclusion was restricted to a laborer 1 classification on an hourly basis, an exclusion for student workers employed by the Department of Personnel was added, and an age 65 at appointment exclusion, unless previously vested, was added.
- In 1977 (Laws 1977, Ch. 98, Sec. 1), the MSRS-General exclusion provision was amended to add a post-June 1, 1977, Metropolitan Waste Control Commission tradesman exclusion.
- In 1978 (Laws 1978, Ch. 538, Sec. 1; Ch. 672, Sec. 11-12; and Ch. 720, Sec. 3), the MSRS-General inclusions and exclusions provisions were modified, with the inclusions expanded to employees of the Metropolitan Transit Commission, the Metropolitan Council, the Metropolitan Parks and Open

Space Commission, the Metropolitan Waste Control Commission, the Metropolitan Sports Facility Commission, the Metropolitan Mosquito Control Commission, and judges of the Minnesota Tax Court, and the exclusions were modified by eliminating the Tax Court judge exclusion and by adding enrollees in state employment under the federal Comprehensive Employment and Training Act unless previously vested in the plan or employed under an agreement by which the employer covers the pension plan employer contribution from non-federal funds.

- In 1980 (Laws 1980, Ch. 614, Sec. 135), the exclusion of the members of the personnel board from MSRS-General membership was eliminated.
- In 1983 (Laws 1983, Ch. 247, Sec. 137), an exception from an MSRS-General membership exclusion of court employees for Supreme Court employees was broadened to cover all appellate court employees.
- In 1984 (Laws 1984, Ch. 654, Art. 3, Sec. 100), employees of the Regional Transit Board were added to the MSRS-General membership inclusions.
- In 1985 (Laws 1985, Ch. 248, Sec. 54, and 1st Spec. Sess. 1985, Ch. 13, Sec. 317), the MSRS-General membership inclusion provision was modified to remove an obsolete reference to the legislative research committee and the MSRS-General membership exclusion provision for Department of Revenue personnel employment was clarified to reflect a shift of those employees from the unclassified civil service to the classified civil service.
- In 1987 (Laws 1987, Ch. 83, Sec. 1; Ch. 229, Art. 6; and Ch. 372, Art. 1, Sec. 2), the MSRS-General membership exclusion provision was expanded to exclude off-duty police officers employed by the Metropolitan Transit Commission and full-time firefighters employed by the Department of Military Affairs who are covered by the Public Employees Police and Fire Retirement Plan (PERA-P&F) and the MSRS-General membership provisions were redrafted to update their language style and usage.
- In 1989 (Laws 1989, Ch. 209, Art. 2, Sec. 35, and Ch. 335, Art. 3, Sec. 4), the MSRS-General membership exclusions were modified, with the court employee exclusion narrowed to employees who were not in the judicial branch and the exclusion of certain operators and drivers was eliminated.
- In 1990 (Laws 1990, Ch. 426, Art. 1, Sec. 41, and Ch. 570, Art. 1, Sec. 2), the MSRS-General membership exclusion provision was modified by eliminating the exclusion for employees of the General Army of the Republic and by revising the specification of the exclusion of State Patrol Retirement Plan members who are not state troopers.
- In 1992 (Laws 1992, Ch. 432, Art. 1, Sec. 1), the MSRS-General membership exclusion provision was modified to eliminate the exclusion of employees of the Ladies of the General Army of the Republic, the elimination of the exclusion of budget classification number 41 trainees, and the revision of the chaplain and nun exclusion to base the exclusion on religious exclusions under the federal Social Security law.
- In 1993 (Laws 1993, Ch. 307, Art. 1, Sec. 3-4), the MSRS-General membership inclusion and exclusion provisions were amended by including privatized former University of Minnesota heating plant employees in MSRS-General coverage for the duration of their employment with the successor private sector employer and by increasing the threshold salary for an exclusion exception for secretaries, treasurers, or secretary-treasurers of state boards or commissions to \$5,000 and changing the minimum-period time limit on service to three years, by eliminating the age 65 at employment exclusion, by broadening the Metropolitan Transit Commission off-duty police officer exclusion for the hiring authority, by adding an exclusion for full-time Metropolitan Transit Commission police officers with Public Employees Police and Fire Retirement Plan (PERA-P&F) membership, and by adding an exclusion for under-three-year alien employee work permits.
- In 1994 (Laws 1994, Ch. 572, Sec. 4, and Ch. 628, Art. 3, Sec. 26-27), the MSRS-General membership inclusions and exclusions were modified by modifying the metropolitan government employee inclusion and exclusion to accommodate a Metropolitan Council reorganization and by adding an exclusion for Higher Education Board employees who elected to retain prior PERA-General or MERF retirement coverage.
- In 1995 (Laws 1995, Ch. 54, Sec. 26; Ch. 186, Sec. 70; and Ch. 195, Art. 2, Sec. 1), the MSRS-General membership inclusions and exclusions were modified, with the elimination of an obsolete statutory cross-reference related to the Metropolitan government employees inclusion, the inclusions were expanded to include Metropolitan Radio Board employees, and the exclusion for appeals tribunal members was eliminated.
- In 1997 (Laws 1997, Ch. 241, Art. 8, Sec. 3-4), the MSRS-General membership inclusions and exclusions were modified by including, rather than excluding, seasonal Department of Revenue

help in the classified civil service and including Minnesota State Colleges and Universities System (MnSCU) personnel also rendering part-time state employment if the state employment comprises at least 50% of the person's combined salary.

- In 2000 (Laws 2000, Ch. 457, Sec. 6), the MSRS-General membership inclusion for legislative employees was modified by eliminating the permanent employment requirement and replacing it with an unlimited time duration appointment requirement.
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 10, Art. 3, Sec. 4-5, and Art. 8, Sec. 1), the MSRS-General membership inclusion and exclusions were modified by updating the references to the Minnesota State Colleges and Universities System (MnSCU) and eliminating the 1997 MnSCU-related inclusion, by newly excluding MnSCU unclassified employees, by updating the language style and usage of the exclusion provision, and by updating the State Patrol Retirement Plan exclusion to account for the addition of Department of Corrections Fugitive Apprehension officers.
- In 2005 (1st Spec. Sess. Laws 2005, Ch. 8, Art. 4, Sec. 2), the MSRS-General membership inclusions were expanded to include Department of Commerce Insurance Fraud Prevention Division in excess of the applicable state mandatory retirement age for State Patrol Retirement Plan members.
- In 2007 (Laws 2007, Ch. 134, Art. 2, Sec. 2-3, and Art. 11, Sec. 6), the MSRS-General membership inclusions were modified by eliminating Armory Building commission employees, by clearly adding University of Minnesota employees who have not been exempted by action of the Board of Regents, by adding Middle Management Association employees hired after July 1, 2007, and the MSRS-General membership exclusions for student employees exception for Board of Regents approval for the University of Minnesota was clarified.
- In 2008 (Laws 2008, Ch. 277, Art. 1, Sec. 73, and Ch. 349, Art. 5, Sec. 1), the MSRS-General membership inclusions were expanded with the addition of the Minnesota Government Engineers Council employees and the MSRS-General membership exclusion for MnSCU employees with PERA-General or MERF coverage was revised to reflect the end of the coverage election option.
- In 2009 (Laws 2009, Ch. 169, Art. 2, Sec. 3), the MSRS-General membership exclusion for State Patrol Retirement Plan members was revised relating to a State Patrol Plan definition recodification.
- In 2012 (Laws 2012, Ch. 299, Art. 1, Sec. 8), the MSRS-General membership inclusion was expanded to the Minnesota Sports Facility Authority employees.

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- 1.1 moves to amend H.F. No. 1521; S.F. No., as follows:
- 1.2 Page 1, line 19, strike everything after "employment"
- 1.3 Page 1, strike line 20
- 1.4 Page 1, line 21, strike everything before the semicolon

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1521

03/05/2015 Authored by Hoppe

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

1.1 A bill for an act
1.2 relating to retirement; Minnesota State Retirement System; clarifying retirement
1.3 plan coverage for certain part-time legislative employees; amending Minnesota
1.4 Statutes 2014, sections 352.01, subdivisions 2a, 2b; 352D.02, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2014, section 352.01, subdivision 2a, is amended to read:

1.7 Subd. 2a. **Included employees.** (a) "State employee" includes:

1.8 (1) employees of the Minnesota Historical Society;

1.9 (2) employees of the State Horticultural Society;

1.10 (3) employees of the Minnesota Crop Improvement Association;

1.11 (4) employees of the adjutant general whose salaries are paid from federal funds and
1.12 who are not covered by any federal civilian employees retirement system;

1.13 (5) employees of the Minnesota State Colleges and Universities who are employed
1.14 under the university or college activities program;

1.15 (6) currently contributing employees covered by the system who are temporarily
1.16 employed by the legislature during a legislative session or any currently contributing
1.17 employee employed for any special service as defined in subdivision 2b, clause ~~(8)~~ (6);

1.18 (7) full-time and part-time employees of the legislature who are appointed without
1.19 a limit on the duration of their employment and persons employed or designated by the
1.20 legislature or by a legislative committee or commission or other competent authority to
1.21 conduct a special inquiry, investigation, examination, or installation;

1.22 (8) trainees who are employed on a full-time established training program
1.23 performing the duties of the classified position for which they will be eligible to receive
1.24 immediate appointment at the completion of the training period;

- 2.1 (9) employees of the Minnesota Safety Council;
- 2.2 (10) any employees who are on authorized leave of absence from the Transit
2.3 Operating Division of the former Metropolitan Transit Commission and who are employed
2.4 by the labor organization which is the exclusive bargaining agent representing employees
2.5 of the Transit Operating Division;
- 2.6 (11) employees of the Metropolitan Council, Metropolitan Parks and Open Space
2.7 Commission, Metropolitan Sports Facilities Commission, or Metropolitan Mosquito
2.8 Control Commission unless excluded under subdivision 2b or are covered by another
2.9 public pension fund or plan under section 473.415, subdivision 3;
- 2.10 (12) judges of the Tax Court;
- 2.11 (13) personnel who were employed on June 30, 1992, by the University of
2.12 Minnesota in the management, operation, or maintenance of its heating plant facilities,
2.13 whose employment transfers to an employer assuming operation of the heating plant
2.14 facilities, so long as the person is employed at the University of Minnesota heating plant
2.15 by that employer or by its successor organization;
- 2.16 (14) personnel who are employed as seasonal employees in the classified or
2.17 unclassified service;
- 2.18 (15) persons who are employed by the Department of Commerce as a peace officer
2.19 in the Commerce Fraud Bureau under section 45.0135 who have attained the mandatory
2.20 retirement age specified in section 43A.34, subdivision 4;
- 2.21 (16) employees of the University of Minnesota unless excluded under subdivision
2.22 2b, clause (3);
- 2.23 (17) employees of the Middle Management Association whose employment began
2.24 after July 1, 2007, and to whom section 352.029 does not apply;
- 2.25 (18) employees of the Minnesota Government Engineers Council to whom section
2.26 352.029 does not apply;
- 2.27 (19) employees of the Minnesota Sports Facilities Authority;
- 2.28 (20) employees of the Minnesota Association of Professional Employees;
- 2.29 (21) employees of the Minnesota State Retirement System;
- 2.30 (22) employees of the State Agricultural Society;
- 2.31 (23) employees of the Gillette Children's Hospital Board who were employed in the
2.32 state unclassified service at the former Gillette Children's Hospital on March 28, 1974; and
- 2.33 (24) if approved for coverage by the Board of Directors of Conservation Corps
2.34 Minnesota, employees of Conservation Corps Minnesota so employed on June 30, 2003.
- 2.35 (b) Employees specified in paragraph (a), clause (13), are included employees under
2.36 paragraph (a) if employer and employee contributions are made in a timely manner in the

3.1 amounts required by section 352.04. Employee contributions must be deducted from
 3.2 salary. Employer contributions are the sole obligation of the employer assuming operation
 3.3 of the University of Minnesota heating plant facilities or any successor organizations to
 3.4 that employer.

3.5 Sec. 2. Minnesota Statutes 2014, section 352.01, subdivision 2b, is amended to read:

3.6 Subd. 2b. **Excluded employees.** "State employee" does not include:

3.7 (1) persons who are:

3.8 (i) students employed by the University of Minnesota, or within the Minnesota State
 3.9 Colleges and Universities system, unless approved for coverage by the Board of Regents
 3.10 of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges
 3.11 and Universities, whichever applies;

3.12 (ii) employed as interns for a period not to exceed six months unless included under
 3.13 subdivision 2a, paragraph (a), clause (8);

3.14 (iii) employed as trainee employees unless included under subdivision 2a, paragraph
 3.15 (a), clause (8); or

3.16 (iv) employed in the student worker classification as designated by Minnesota
 3.17 Management and Budget;

3.18 (2) employees who are:

3.19 (i) eligible for membership in the state Teachers Retirement Association, unless the
 3.20 person is an employee of the Department of Education who elected to be covered by the
 3.21 general state employees retirement plan of the Minnesota State Retirement System instead
 3.22 of the Teachers Retirement Association;

3.23 (ii) employees of the state who, in any year, were credited with 12 months of
 3.24 allowable service as a public school teacher and, as such, are members of a retirement plan
 3.25 governed by chapter 354 or 354A unless the employment is incidental employment as a
 3.26 state employee that is not covered by a retirement plan governed by chapter 354 or 354A;

3.27 (iii) employees of the state who are employed by the Board of Trustees of the
 3.28 Minnesota State Colleges and Universities in an unclassified position that is listed in
 3.29 section 43A.08, subdivision 1, clause (9);

3.30 (iv) persons employed by the Board of Trustees of the Minnesota State Colleges and
 3.31 Universities who elected retirement coverage other than by the general state employees
 3.32 retirement plan of the Minnesota State Retirement System under Minnesota Statutes
 3.33 1994, section 136C.75;

4.1 (v) officers or enlisted personnel in the National Guard or in the naval militia who
 4.2 are assigned to permanent peacetime duty and who are or are required to be members of a
 4.3 federal retirement system under federal law;

4.4 (vi) persons employed by the Department of Military Affairs as full-time firefighters
 4.5 and who, as such, are members of the public employees police and fire retirement plan;

4.6 (vii) members of the State Patrol retirement plan under section 352B.011,
 4.7 subdivision 10;

4.8 (viii) off-duty police officers while employed by the Metropolitan Council and
 4.9 persons employed as full-time police officers by the Metropolitan Council and who, as
 4.10 such, are members of the public employees police and fire retirement plan; and

4.11 (ix) employees of the state who have elected to transfer account balances derived
 4.12 from state service to the unclassified state employees retirement program under section
 4.13 352D.02, subdivision 1d;

4.14 (3) employees of the University of Minnesota who are excluded from coverage by
 4.15 action of the Board of Regents;

4.16 (4) election judges and persons who are employed solely to administer elections;

4.17 (5) persons who are:

4.18 (i) engaged in public work for the state but who are employed by contractors when the
 4.19 performance of the contract is authorized by the legislature or other competent authority;

4.20 (ii) employed to perform professional services where the service is incidental to the
 4.21 person's regular professional duties and where compensation is paid on a per diem basis; or

4.22 (iii) compensated on a fee payment basis or as an independent contractor;

4.23 (6) persons who are employed:

4.24 (i) on a legislative session only basis or on a temporary basis by the house of
 4.25 representatives, the senate, or a legislative commission or agency under the jurisdiction of
 4.26 the Legislative Coordinating Commission;

4.27 (ii) as a temporary employee on or after July 1 for a period ending on or before
 4.28 October 15 of that calendar year for the Minnesota State Agricultural Society or the
 4.29 Minnesota State Fair, or as an employee at any time for a special event held on the
 4.30 fairgrounds;

4.31 (iii) by the executive branch as a temporary employee in the classified service or
 4.32 as an executive branch temporary employee in the unclassified service if appointed for a
 4.33 definite period not to exceed six months, and if employment is less than six months, then
 4.34 in any 12-month period;

5.1 (iv) by the adjutant general if employed on an unlimited intermittent or temporary
 5.2 basis in the classified service or in the unclassified service for the support of Army or Air
 5.3 National Guard training facilities;

5.4 (v) by a state or federal program for training or rehabilitation as a temporary
 5.5 employee if employed for a limited period from an area of economic distress and if other
 5.6 than a skilled or supervisory personnel position or other than a position that has civil
 5.7 service status covered by the retirement system; and

5.8 (vi) by the Metropolitan Council or a statutory board of the Metropolitan Council
 5.9 where the members of the board are appointed by the Metropolitan Council as a temporary
 5.10 employee if the appointment does not exceed six months;

5.11 (7) receivers, jurors, notaries public, and court employees who are not in the judicial
 5.12 branch as defined in section 43A.02, subdivision 25, except referees and adjusters
 5.13 employed by the Department of Labor and Industry;

5.14 (8) patient and inmate help who perform services in state charitable, penal, and
 5.15 correctional institutions, including a Minnesota Veterans Home;

5.16 (9) employees of the Sibley House Association;

5.17 (10) persons who are:

5.18 (i) members of any state board or commission who serve the state intermittently and
 5.19 are paid on a per diem basis, the secretary, secretary-treasurer, and treasurer of those
 5.20 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited
 5.21 from serving more than three years, and the board of managers of the State Agricultural
 5.22 Society and its treasurer unless the treasurer is also its full-time secretary;

5.23 (ii) examination monitors employed by a department, agency, commission, or board
 5.24 of the state to conduct examinations that are required by law; or

5.25 (iii) appointees serving as a member of a fact-finding commission or an adjustment
 5.26 panel, an arbitrator, or a labor referee under chapter 179;

5.27 (11) emergency employees who are in the classified service, but if an emergency
 5.28 employee, within the same pay period, becomes a provisional or probationary employee
 5.29 on other than a temporary basis, the employee must be considered a "state employee"
 5.30 retroactively to the beginning of the pay period;

5.31 (12) persons who are members of a religious order who are excluded from coverage
 5.32 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the
 5.33 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),
 5.34 as amended, if no irrevocable election of coverage has been made under section 3121(r) of
 5.35 the Internal Revenue Code of 1986, as amended;

6.1 (13) members of trades who are employed by the successor to the Metropolitan
 6.2 Waste Control Commission, who have trade union pension plan coverage under a
 6.3 collective bargaining agreement, and who are first employed after June 1, 1977;

6.4 (14) foreign citizens who are employed under a work permit of less than three
 6.5 years or under an H-1b visa or a J-1 visa that is initially valid for less than three years of
 6.6 employment, unless notice of a visa extension which allows them to work for three or
 6.7 more years as of the date that the extension is granted and is supplied to the retirement
 6.8 plan, in which case the person is eligible for coverage from the date of the extension; and

6.9 (15) reemployed annuitants of the general state employees retirement plan, the
 6.10 military affairs personnel retirement plan, the transportation department pilots retirement
 6.11 plan, the state fire marshal employees retirement plan, or the correctional state employees
 6.12 retirement plan during the course of that reemployment.

6.13 Sec. 3. Minnesota Statutes 2014, section 352D.02, subdivision 1, is amended to read:

6.14 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),
 6.15 (3), (4), (6) to (14), and (16) to (18), if they are in the unclassified service of the state or
 6.16 Metropolitan Council and are eligible for coverage under the general state employees
 6.17 retirement plan under chapter 352, are participants in the unclassified program under this
 6.18 chapter unless the employee gives notice to the executive director of the Minnesota State
 6.19 Retirement System within one year following the commencement of employment in the
 6.20 unclassified service that the employee desires coverage under the general state employees
 6.21 retirement plan. For the purposes of this chapter, an employee who does not file notice
 6.22 with the executive director is deemed to have exercised the option to participate in the
 6.23 unclassified program.

6.24 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
 6.25 program under this chapter unless the person was eligible to elect different coverage under
 6.26 section 3A.07 and elected retirement coverage by the applicable alternative retirement
 6.27 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified
 6.28 program under this chapter for judicial employment in excess of the service credit limit in
 6.29 section 490.121, subdivision 22.

6.30 (c) Enumerated employees and referenced persons are:

6.31 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
 6.32 and the attorney general;

6.33 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
 6.34 of State, State Auditor, Attorney General;

6.35 (3) an employee of the State Board of Investment;

7.1 (4) the head of a department, division, or agency created by statute in the unclassified
7.2 service, an acting department head subsequently appointed to the position, or an employee
7.3 enumerated in section 15A.0815 or 15A.083, subdivision 4;

7.4 (5) a member of the legislature;

7.5 (6) a full-time or part-time unclassified employee of the legislature or a commission
7.6 or agency of the legislature who is appointed without a limit on the duration of the
7.7 employment or a temporary legislative employee having shares in the supplemental
7.8 retirement fund as a result of former employment covered by this chapter, whether or not
7.9 eligible for coverage under the Minnesota State Retirement System;

7.10 (7) a person who is employed in a position established under section 43A.08,
7.11 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
7.12 a department or agency of the state, which is at the deputy or assistant head of department
7.13 or agency or director level;

7.14 (8) the regional administrator, or executive director of the Metropolitan Council,
7.15 general counsel, division directors, operations managers, and other positions as designated
7.16 by the council, all of which may not exceed 27 positions at the council and the chair;

7.17 (9) the commissioner, deputy commissioner, and not to exceed nine positions
7.18 of the Minnesota Office of Higher Education in the unclassified service, as designated
7.19 by the Minnesota Office of Higher Education before January 1, 1992, or subsequently
7.20 redesignated with the approval of the board of directors of the Minnesota State Retirement
7.21 System, unless the person has elected coverage by the individual retirement account
7.22 plan under chapter 354B;

7.23 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
7.24 Constitution of the state of Minnesota, the state court administrator and judicial district
7.25 administrators;

7.26 (11) the chief executive officers of correctional facilities operated by the Department
7.27 of Corrections and of hospitals and nursing homes operated by the Department of Human
7.28 Services;

7.29 (12) an employee whose principal employment is at the state ceremonial house;

7.30 (13) an employee of the Agricultural Utilization Research Institute;

7.31 (14) an employee of the State Lottery who is covered by the managerial plan
7.32 established under section 43A.18, subdivision 3;

7.33 (15) a judge who has exceeded the service credit limit in section 490.121,
7.34 subdivision 22;

7.35 (16) an employee of Enterprise Minnesota, Inc.;

8.1 (17) a person employed by the Minnesota State Colleges and Universities as faculty
8.2 or in an eligible unclassified administrative position as defined in section 354B.20,
8.3 subdivision 6, who was employed by the former state university or the former community
8.4 college system before May 1, 1995, and elected unclassified program coverage prior to
8.5 May 1, 1995; and

8.6 (18) a person employed by the Minnesota State Colleges and Universities who
8.7 was employed in state service before July 1, 1995, who subsequently is employed in an
8.8 eligible unclassified administrative position as defined in section 354B.20, subdivision
8.9 6, and who elects coverage by the unclassified program.

8.10 Sec. 4. **EFFECTIVE DATE.**

8.11 Sections 1 to 3 are effective retroactively from March 28, 2013.