



H.F. 1717
(Johnson, C.)

S.F. 1791
(Rosen)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special law provision
General Nature of Proposal: Membership inclusion for MRAAA Employees.
Date of Summary: March 13, 2015

Specific Proposed Changes *and the Southwest Regional Development Commission*
Region Nine

- Permits former employees of the ~~Mid-Minnesota~~ Development Commission, which contracted with the Minnesota River Area Agency on Aging (MNRAAA) to provide various services and who ended its contractual relationship with the MNRAAA, who subsequently have been employed by MNRAAA to continue being covered for retirement purposes by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in that capacity.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of continuing public pension coverage for privatized public employees
2. PERA privatization law as alternative resolution.
3. MNRAAA potential self-help remedy.
4. Adequacy of PERA tools for enforcing payment and reporting obligations on a privatized employer.

Technical Amendment

H1717-1A replaces "first" with "previously" to more correctly describe the employees to be continued in PERA-General retirement coverage.

This page left blank intentionally.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JLM*
RE: H.F. 1717 (Johnson, C.); S.F. 1791 (Rosen): PERA; Membership Inclusion for Minnesota River Area Agency on Aging
DATE: March 13, 2015

Summary of H.F. 1717 (Johnson, C.); S.F. 1791 (Rosen)

H.F. 1717 (Johnson, C.); S.F. 1791 (Rosen) amends Minnesota Statutes, Section 353.01, Subdivisions 2a and 6, the Public Employees Retirement Association (PERA) statutory definitions of membership inclusions and governmental subdivisions, by including in General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) retirement coverage employees who were formerly employed by a regional development commissioner before January 1, 2016, and are subsequently employed by the Minnesota River Area Agency on Aging.

Background Information on Relevant Topics

The following attachment provides background information on topics relevant to the proposed legislation:

- **Attachment A:** Background information on the Minnesota River Area Agency on Aging.

Discussion and Analysis

Region Nine Development Commission and the Southwest Regional

H.F. 1717 (Johnson, C.); S.F. 1791 (Rosen) permits former employees of the ~~Mid-Minnesota~~ *Region Nine Development Commission* Development Commission, which contracted with the Minnesota River Area Agency on Aging (MNRAAA) to provide various services and who ended its contractual relationship with the MNRAAA, who subsequently have been employed by MNRAAA to continue being covered for retirement purposes by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in that capacity.

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 Continuing Public Pension Coverage for Privatized Public Employees. The policy issue is whether or not it is appropriate to continue public sector defined benefit retirement coverage for employees who shift from employment in the public sector to employment in the private sector while performing the same employment functions. Public sector pension plans are intended to be applicable to public employees. Federal income tax and labor law defined governmental plans as plans established or maintained for its employees by a government. Federal regulation of pension plans is generally less stringent or inapplicable for governmental pension plans. If public pension plan include more than a "de minimis" number of private sector employees in its membership, a threshold not specifically set forth in federal law, regulation, or ruling, the public pension plan risks becoming subject to greater federal regulation and liable for potential previously inapplicable tax obligations. The number of privatized public employees involved in this legislation is likely to be very small and will decline over time as the group of applicable employees phases into retirement, meaning that it is unlikely that this proposed action would cause the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) to move beyond a "de minimis" number of non-governmental participants. Also, this status concern has not always been a significant consideration in past legislative deliberations. As early as the 1985-1986 continuation of PERA coverage for the former St. Paul-Ramsey County Hospital employees when it privatized (ultimately becoming Regions Hospital), repeated for the privatization of the Hennepin County Medical Center about a decade ago, and as recently as the 2009 extension of PERA coverage for employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association, both nonprofit corporations, there was limited or no controversy.
2. PERA Privatization Law as Alternative. The policy issue is whether or not the Public Employees Retirement Association (PERA) privatized public employee law, Minnesota Statutes, Chapter 353F, could provide an alternative resolution to this potential pension coverage loss issue in this case. The

privatization law, by providing a previously significantly enhanced deferred annuities augmentation rate, was intended to provide a resolution to some portion of the disruptions in public pension plan coverage imposed by the employer by ending the employee's status as a public employee. The increased liability of the privatization law benefits, which also include ongoing "Rule of 90" eligibility where applicable, was required to be covered by the actuarial gain from plan coverage accruing to PERA from the premature departure of a group of privatized employees. With the reductions in benefits added to the PERA General Employee Retirement Plan in 2010 and thereafter and a general scaling back of the benefit in the privatization law, there may be reduced or eliminated value of Minnesota Statutes, Chapter 353F, as a potential solution to pension disruptions arising from a privatization.

3. MNRAAA Potential Self-Help Remedy. The policy issue is whether or not there is a non-legislative self-help remedy available to the Minnesota River Area Agency on Aging (MNRAAA) to resolve the potential disruption in future pension coverage to be suffered by the former public employees who had performed services under the construct between the MNRAAA and the Mid-Minnesota Development Commission. The self-help remedy would be to find a different governmental entity to replace the Mid-Minnesota Development Commission as the employer of the affected employees and with which MNRAAA could contract for the provision of services. The Commission may wish to explore with MNRAAA representatives whether or not they pursued this self-help remedy and what impediments may exist to implementing it if the proposed legislation is not recommended or enacted.
4. Adequacy of PERA Tools for Enforcing Payment and Reporting Obligations on a Privatized Employer. The policy issue is whether or not, if the proposed legislation is enacted, the Public Employees Retirement Association (PERA) would have sufficient enforcement tools to compel a privatized employer to make the prompt and timely payment of member deductions and employer contributions and to make required reports needed to effectively administer the PERA law. For most governmental employers, PERA relies on general statutory collections authority to certify to the applicable county auditor the amount of any unpaid obligation and to have a property tax levy imposed to recoup the funds owed. While this authority does not cover all governmental entities covered by PERA, since some do not rely on direct property tax funding, it does not appear to be a problem of any magnitude for PERA to date. Unpaid retirement contributions were a problem years ago when a number of charter schools did not pay their retirement obligations to several public pension plans. As a nonprofit corporation, PERA has little leverage over the Minnesota River Area Agency on Aging (MNRAAA) beyond normal debtor-creditor law remedies if it should become a creditor with unpaid obligations in the future.

Technical Amendment

Amendment H1717-1A would replace "first" with "previously" to more correctly describe the employees to be continued in PERA-General retirement coverage.

Background Information on the Minnesota River Area Agency on Aging, Inc.

1. **Entity.** The Minnesota River Area Agency on Aging, Inc. (MNRAAA), a Minnesota nonprofit corporation, serves 27 counties in the Southwest Minnesota Planning and Service Area.
2. **Programs and Functions.** It contracts with the Minnesota Board on Aging (MBA) to provide statewide support services through the **Client Service Center (CSC)** for the **Senior LinkAge Line (SLL)** call centers. CSC staff work out of both the Mankato and Slayton offices. Staff in the Mankato office supports the **Pre-Admission Screening (PAS)** work done by the SLL and provides assistance to consumers via a live chat feature on www.MinnesotaHelp.info. PAS is a federal and state requirement for anyone entering a nursing facility. Up until November 1, 2013, PAS was done by local counties and is now a streamlined, statewide process via an online referral site conducted by SLL staff. The Mankato office assists consumers by answering questions, provides information on thousands of health and social service providers throughout the state, and offers information on disabilities, housing, human services, health care and volunteerism.

The Slayton office supports the **Return to the Community Initiative (RTC)**, an in-person service of the SLL. The initiative focuses on the consumer and his/her family by beginning transition planning soon after a nursing home admission. Dedicated SLL specialists help private pay nursing home residents who would like to return home or to another community setting. Telephone follow-up is then offered for five years after discharge from the nursing home or after a support plan is implemented for consumers already residing in the community.

The **Living Well with Chronic Conditions Program (CDSMP)** attempts to increase self-management through building skills in goal setting, problem solving, communication, working with health care providers, and treatment management for adults 60+ with chronic conditions who are able to participate in goal setting and problem solving activities through community classes of eight to 15 participants, led by co-leaders who have been trained by MNRAAA, meeting for 2½ hours, once per week, for six weeks, utilizing four MNRAAA master trainers and 38 trained leaders who are able to offer community classes in 23 of 27 counties.

The **Matter of Balance Program (MOB)** is intended to reduce the fear of falling and to increase self-management skills to prevent falls, through goal setting, problem solving, and exercising to increase balance, flexibility and lower body strength for adults 60+ with a history of falls or at risk of falls and are able to participate in goal setting and problem solving activities, through community classes of eight to 15 participants, led by co-leaders who have been trained by MNRAAA, meeting for two hours, once per week, for eight weeks utilizing two MNRAAA Master Trainers and has 41 trained leaders who are able to offer community classes in 23 of the 27 counties.

The **Powerful Tools for Caregivers Program (PTC)** is intended to provide to caregivers tools and strategies to better handle unique caregiver challenges, including self-care behaviors, management of emotions, self-efficacy and use of community resources, through classes of eight to 15 participants, led by MNRAAA-trained co-leaders meeting for two hours, once per week, for six weeks or 90 minute sessions, once per week, for six weeks, supporting two Master Trainers and utilizing 30 trained leaders who are able to offer community classes in 16 of the 27 counties.

3. **Pension Coverage Problem.** Before 2014, the MNRAAA followed the practice of contracting with regional development commissions for staff to work on behalf of MNRAAA.

In 2014, the Mid-Minnesota Development Commission (MMDC), one of MNRAAA's financial partners, provided official notification of their intent to end their contractual agreement with MNRAAA, leaving MNRAAA to become the direct employers of program staff. Job functions previously covered out of MMDC's Willmar office were temporarily assigned to MNRAAA staff from the Mankato and Slayton offices.

As a consequence, staff acquired from the Mid-Minnesota Development Commission, a governmental entity where they were covered by the General Employees Retirement Plan of the Public Employee Retirement Association (PERA-General), as employees of MNRAAA, a nonprofit corporation, are not eligible to continue PERA-General retirement coverage absent legislation permitting their continuing membership.

This page left blank intentionally.

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.

This page left blank intentionally.

- 1.1 moves to amend H.F. No. 1717; S.F. No. 1791, as follows:
- 1.2 Page 2, line 17, delete "first" and insert "previously"

This page left blank intentionally.

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1717

03/10/2015 Authored by Johnson, C.; Gunther; Cornish and Considine

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; including membership of certain Minnesota River Area
1.3 Agency on Aging employees in the Public Employees Retirement Association;
1.4 amending Minnesota Statutes 2014, section 353.01, subdivisions 2a, 6.

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

1.6 Section 1. Minnesota Statutes 2014, section 353.01, subdivision 2a, is amended to read:

1.7 Subd. 2a. **Included employees; mandatory membership.** (a) Public employees
1.8 whose annual salary from one governmental subdivision is stipulated in advance to exceed
1.9 \$5,100 if the person is not a school year employee or \$3,800 if the person is a school year
1.10 employee and who are not specifically excluded under subdivision 2b or who have not
1.11 been provided an option to participate under subdivision 2d, whether individually or by
1.12 action of the governmental subdivision, must participate as members of the association
1.13 with retirement coverage by the general employees retirement plan under this chapter,
1.14 the public employees police and fire retirement plan under this chapter, or the local
1.15 government correctional employees retirement plan under chapter 353E, whichever
1.16 applies. Membership commences as a condition of their employment on the first day of
1.17 their employment or on the first day that the eligibility criteria are met, whichever is later.

1.18 Public employees include but are not limited to:

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

1.21 (2) elected county sheriffs;

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

- 2.1 (i) town and city clerk or treasurer;
- 2.2 (ii) county auditor, treasurer, or recorder;
- 2.3 (iii) city manager as defined in section 353.028 who does not exercise the option
2.4 provided under subdivision 2d; or
- 2.5 (iv) emergency management director, as provided under section 12.25;
- 2.6 (4) physicians under section 353D.01, subdivision 2, who do not elect public
2.7 employees defined contribution plan coverage under section 353D.02, subdivision 2;
- 2.8 (5) full-time employees of the Dakota County Agricultural Society;
- 2.9 (6) employees of the Red Wing Port Authority who were first employed by the
2.10 Red Wing Port Authority before May 1, 2011, and who are not excluded employees
2.11 under subdivision 2b;
- 2.12 (7) employees of the Seaway Port Authority of Duluth who are not excluded
2.13 employees under subdivision 2b;
- 2.14 (8) employees of the Stevens County Housing and Redevelopment Authority who
2.15 were first employed by the Stevens County Housing and Redevelopment Authority before
2.16 May 1, 2014, and who are not excluded employees under subdivision 2b; ~~and~~
- 2.17 (9) employees of the Minnesota River Area Agency on Aging who were first
2.18 employed by a Regional Development Commission before January 1, 2016, and who are
2.19 not excluded employees under subdivision 2b; and
- 2.20 ~~(9)~~ (10) employees of the Public Employees Retirement Association.
- 2.21 (b) A public employee or elected official who was a member of the association on
2.22 June 30, 2002, based on employment that qualified for membership coverage by the public
2.23 employees retirement plan or the public employees police and fire plan under this chapter,
2.24 or the local government correctional employees retirement plan under chapter 353E as of
2.25 June 30, 2002, retains that membership for the duration of the person's employment in that
2.26 position or incumbency in elected office. Except as provided in subdivision 28, the person
2.27 shall participate as a member until the employee or elected official terminates public
2.28 employment under subdivision 11a or terminates membership under subdivision 11b.
- 2.29 (c) If in any subsequent year the annual salary of an included public employee is
2.30 less than the minimum salary threshold specified in this subdivision, the member retains
2.31 membership eligibility.
- 2.32 (d) For the purpose of participation in the MERF division of the general employees
2.33 retirement plan, public employees include employees who were members of the former
2.34 Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as
2.35 members of the MERF division of the association.

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

3.1 Sec. 2. Minnesota Statutes 2014, section 353.01, subdivision 6, is amended to read:

3.2 Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a
 3.3 county, city, town, school district within this state, or a department, unit or instrumentality
 3.4 of state or local government, or any public body established under state or local
 3.5 authority that has a governmental purpose, is under public control, is responsible for the
 3.6 employment and payment of the salaries of employees of the entity, and receives a major
 3.7 portion of its revenues from taxation, fees, assessments or from other public sources.

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

3.29 (c) Governmental subdivision does not mean any municipal housing and
 3.30 redevelopment authority organized under the provisions of sections 469.001 to 469.047;
 3.31 or any port authority organized under sections 469.048 to 469.089 other than the Port
 3.32 Authority of the city of St. Paul or the Seaway Port Authority of Duluth and other than
 3.33 the Red Wing Port Authority; or any hospital district organized or reorganized prior to
 3.34 July 1, 1975, under sections 447.31 to 447.37 or the successor of the district; or the board
 3.35 of a family service collaborative or children's mental health collaborative organized

4.1 under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled
4.2 by representatives of governmental units.

4.3 (d) A nonprofit corporation governed by chapter 317A or organized under Internal
4.4 Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a
4.5 governmental subdivision unless the entity has obtained a written advisory opinion from
4.6 the United States Department of Labor or a ruling from the Internal Revenue Service
4.7 declaring the entity to be an instrumentality of the state so as to provide that any future
4.8 contributions by the entity on behalf of its employees are contributions to a governmental
4.9 plan within the meaning of Internal Revenue Code, section 414(d).

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

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

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