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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2631

03/20/2019 Authored by Nelson
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to retirement; increasing the limits for contributions by governmental
1.3 subdivisions to supplemental pension funds and other retirement funds on behalf
1.4 of laborers, plumbers and pipefitters, and operating engineers who are covered by
1.5 collective bargaining agreements; authorizing limited contributions to supplemental
1.6 pension funds and other retirement funds on behalf of other building trades
1.7 employees; amending Minnesota Statutes 2018, sections 353.01, subdivision 10;
1.8 356.24, subdivision 1.

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

1.10 Section 1. Minnesota Statutes 2018, section 353.01, subdivision 10, is amended to read:

1.11 Subd. 10. Salary. (a) Subject to the limitations of section 356.611, "salary" means:

1.12 (1) the wages or periodic compensation payable to a public employee by the employing
1.13 governmental subdivision before:

1.14 (i) employee retirement deductions that are designated as picked-up contributions under
1.15 section 356.62;

1.16 (ii) any employee-elected deductions for deferred compensation, supplemental retirement
1.17 plans, or other voluntary salary reduction programs that would have otherwise been available
1.18 as a cash payment to the employee; and

1.19 (iii) employee deductions for contributions to a supplemental plan or to a governmental
1.20 trust established under section 356.24, subdivision 1, clause (7), to save for postretirement
1.21 health care expenses, unless otherwise excluded under paragraph (b);

1.22 (2) for a public employee who is covered by a supplemental retirement plan under section
1.23 356.24, subdivision 1, clause (8), ~~(9)~~, (10), or ~~(12)~~ (14), the employer contributions to the
1.24 applicable supplemental retirement plan when an agreement between the parties establishes

2.1 that the contributions will either result in a mandatory reduction of employees' wages through  
2.2 payroll withholdings, or be made in lieu of an amount that would otherwise be paid as  
2.3 wages;

2.4 (3) a payment from a public employer through a grievance proceeding, settlement, or  
2.5 court order that is attached to a specific earnings period in which the employee's regular  
2.6 salary was not earned or paid to the member due to a suspension or a period of involuntary  
2.7 termination that is not a wrongful discharge under section 356.50; provided the amount is  
2.8 not less than the equivalent of the average of the hourly base salary rate in effect during the  
2.9 last six months of allowable service prior to the suspension or period of involuntary  
2.10 termination, plus any applicable increases awarded during the period that would have been  
2.11 paid under a collective bargaining agreement or personnel policy but for the suspension or  
2.12 involuntary termination, multiplied by the average number of regular hours for which the  
2.13 employee was compensated during the six months of allowable service prior to the suspension  
2.14 or period of involuntary termination, but not to exceed the compensation that the public  
2.15 employee would have earned if regularly employed during the applicable period;

2.16 (4) compensation paid during an authorized leave of absence, other than an authorized  
2.17 medical leave of absence, as long as the compensation paid during a pay period is not less  
2.18 than the lesser of:

2.19 (i) the product of the average hourly base salary rate in effect during the six months of  
2.20 allowable service immediately preceding the leave, multiplied by the average number of  
2.21 regular hours for which the employee was compensated each pay period during the six  
2.22 months of allowable service immediately preceding the leave of absence; or

2.23 (ii) compensation equal to the value of the employee's total available accrued leave  
2.24 hours;

2.25 (5) compensation paid during an authorized medical leave of absence, other than a  
2.26 workers' compensation leave, as long as the compensation paid during a pay period is not  
2.27 less than the lesser of:

2.28 (i) the product of one-half and the average hourly base salary rate in effect during the  
2.29 six months of allowable service immediately preceding the leave of absence; or

2.30 (ii) compensation equal to the value of the employee's total available accrued leave  
2.31 hours; and

2.32 (6) for a public employee who receives performance or merit bonus payment under a  
2.33 written compensation plan, policy, or collective bargaining agreement in addition to regular

3.1 salary or in lieu of regular salary increases, the compensation paid to the employee for  
3.2 attaining or exceeding performance goals, duties, or measures during a specified period of  
3.3 employment.

3.4 (b) Salary does not mean:

3.5 (1) fees paid to district court reporters;

3.6 (2) unused annual leave, vacation, or sick leave payments, in the form of lump-sum or  
3.7 periodic payments;

3.8 (3) for the donor, payment to another person of the value of hours donated under a  
3.9 benevolent vacation, personal, or sick leave donation program;

3.10 (4) any form of severance or retirement incentive payments;

3.11 (5) an allowance payment or per diem payments for or reimbursement of expenses;

3.12 (6) lump-sum settlements not attached to a specific earnings period;

3.13 (7) workers' compensation payments or disability insurance payments, including payments  
3.14 from employer self-insurance arrangements;

3.15 (8) employer-paid amounts used by an employee toward the cost of insurance coverage,  
3.16 flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses,  
3.17 or any payments in lieu of any employer-paid group insurance coverage, including the  
3.18 difference between single and family rates that may be paid to a member with single coverage  
3.19 and certain amounts determined by the executive director to be ineligible;

3.20 (9) employer-paid fringe benefits, including, but not limited to:

3.21 (i) employer-paid premiums or supplemental contributions for employees for all types  
3.22 of insurance;

3.23 (ii) membership dues or fees for the use of fitness or recreational facilities;

3.24 (iii) incentive payments or cash awards relating to a wellness program;

3.25 (iv) the value of any nonmonetary benefits;

3.26 (v) any form of payment made in lieu of an employer-paid fringe benefit;

3.27 (vi) an employer-paid amount made to a deferred compensation or tax-sheltered annuity  
3.28 program; and

4.1 (vii) any amount paid by the employer as a supplement to salary, either as a lump-sum  
4.2 amount or a fixed or matching amount paid on a recurring basis, that is not available to the  
4.3 employee as cash;

4.4 (10) the amount equal to that which the employing governmental subdivision would  
4.5 otherwise pay toward single or family insurance coverage for a covered employee when,  
4.6 through a contract or agreement with some but not all employees, the employer:

4.7 (i) discontinues, or for new hires does not provide, payment toward the cost of the  
4.8 employee's selected insurance coverages under a group plan offered by the employer;

4.9 (ii) makes the employee solely responsible for all contributions toward the cost of the  
4.10 employee's selected insurance coverages under a group plan offered by the employer,  
4.11 including any amount the employer makes toward other employees' selected insurance  
4.12 coverages under a group plan offered by the employer; and

4.13 (iii) provides increased salary rates for employees who do not have any employer-paid  
4.14 group insurance coverages;

4.15 (11) except as provided in section 353.86 or 353.87, compensation of any kind paid to  
4.16 volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision  
4.17 35 or 36;

4.18 (12) the amount of compensation that exceeds the limitation provided in section 356.611;

4.19 (13) amounts paid by a federal or state grant for which the grant specifically prohibits  
4.20 grant proceeds from being used to make pension plan contributions, unless the contributions  
4.21 to the plan are made from sources other than the federal or state grant; and

4.22 (14) bonus pay that is not performance or merit pay under paragraph (a), clause (6).

4.23 (c) Amounts, other than those provided under paragraph (a), clause (3), provided to an  
4.24 employee by the employer through a grievance proceeding, a court order, or a legal settlement  
4.25 are salary only if the settlement or court order is reviewed by the executive director and the  
4.26 amounts are determined by the executive director to be consistent with paragraph (a) and  
4.27 prior determinations.

4.28 Sec. 2. Minnesota Statutes 2018, section 356.24, subdivision 1, is amended to read:

4.29 Subdivision 1. **Restriction; exceptions.** It is unlawful for a school district or other  
4.30 governmental subdivision or state agency to levy taxes for or to contribute public funds to  
4.31 a supplemental pension or deferred compensation plan that is established, maintained, and

5.1 operated in addition to a primary pension program for the benefit of the governmental  
5.2 subdivision employees other than:

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

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

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

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

5.9 (5) for employees other than personnel employed by the Board of Trustees of the  
5.10 Minnesota State Colleges and Universities and covered under the Higher Education  
5.11 Supplemental Retirement Plan under chapter 354C, but including city managers covered  
5.12 by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph  
5.13 (a), or by the defined contribution plan of the Public Employees Retirement Association  
5.14 under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is  
5.15 provided for in a personnel policy of the public employer or in the collective bargaining  
5.16 agreement between the public employer and the exclusive representative of public employees  
5.17 in an appropriate unit or in the individual employment contract between a city and a city  
5.18 manager, and if for each available investment all fees and historic rates of return for the  
5.19 prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an easily  
5.20 comprehended document not to exceed two pages, in an amount matching employee  
5.21 contributions on a dollar for dollar basis, but not to exceed an employer contribution of  
5.22 one-half of the available elective deferral permitted per year per employee, under the Internal  
5.23 Revenue Code:

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

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

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

5.31 (6) for personnel employed by the Board of Trustees of the Minnesota State Colleges  
5.32 and Universities and not covered by clause (5), to the supplemental retirement plan under  
5.33 chapter 354C, if the supplemental plan coverage is provided for in a personnel policy or in

6.1 the collective bargaining agreement of the public employer with the exclusive representative  
6.2 of the covered employees in an appropriate unit, in an amount matching employee  
6.3 contributions on a dollar for dollar basis, but not to exceed an employer contribution of  
6.4 \$2,700 a year for each employee;

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

6.10 ~~(8) to the laborers national industrial pension fund or to a laborers local pension fund~~  
6.11 ~~for the employees of a governmental subdivision who are covered by a collective bargaining~~  
6.12 ~~agreement that provides for coverage by that fund and that sets forth a fund contribution~~  
6.13 ~~rate, but not to exceed an employer contribution of \$7,000 per year per employee;~~

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

6.19 ~~(10)~~ (8) to the international union of operating engineers pension fund for the employees  
6.20 of a governmental subdivision who are covered by a collective bargaining agreement that  
6.21 provides for coverage by that fund and that sets forth a fund contribution rate, but not to  
6.22 exceed an employer contribution of ~~\$5,000~~ \$10,500 per year per employee;

6.23 ~~(11)~~ (9) to a supplemental plan organized and operated under the federal Internal Revenue  
6.24 Code, as amended, that is wholly and solely funded by the employee's accumulated sick  
6.25 leave, accumulated vacation leave, and accumulated severance pay;

6.26 ~~(12)~~ (10) to the International Association of Machinists national pension fund for the  
6.27 employees of a governmental subdivision who are covered by a collective bargaining  
6.28 agreement that provides for coverage by that fund and that sets forth a fund contribution  
6.29 rate, but not to exceed an employer contribution of \$5,000 per year per employee;

6.30 ~~(13)~~ (11) for employees of United Hospital District, Blue Earth, to the state of Minnesota  
6.31 deferred compensation program, if the employee makes a contribution, in an amount that  
6.32 does not exceed the total percentage of covered salary under section 353.27, subdivisions  
6.33 3 and 3a;

7.1 ~~(14)~~(12) to the alternative retirement plans established by the Hennepin County Medical  
7.2 Center under section 383B.914, subdivision 5; ~~or~~

7.3 ~~(15)~~(13) to the International Brotherhood of Teamsters Central States pension plan for  
7.4 fixed-route bus drivers employed by the St. Cloud Metropolitan Transit Commission who  
7.5 are members of the International Brotherhood of Teamsters Local 638 by virtue of that  
7.6 employment; or

7.7 (14) to any of the following retirement funds, for employees covered by a collective  
7.8 bargaining agreement that provides for coverage by the fund and sets forth fund contribution  
7.9 rates, but not to exceed an employer contribution of \$50,000 per year per employee:

7.10 (i) the laborers national industrial pension fund or a laborers local pension fund;

7.11 (ii) the plumbers and pipefitters national pension fund or a plumbers and pipefitters local  
7.12 pension fund;

7.13 (iii) the sheet metal workers national defined benefit pension fund, a sheet metal workers  
7.14 local defined benefit pension fund, or a sheet metal workers local defined contribution  
7.15 retirement fund;

7.16 (iv) the elevator constructors national pension fund or the elevator constructors annuity  
7.17 and 401(k) retirement plan;

7.18 (v) the national electrical benefit fund, an electricians local defined benefit pension fund,  
7.19 or an electricians local defined contribution pension fund;

7.20 (vi) the carpenters and joiners defined benefit pension fund or the carpenters and joiners  
7.21 defined contribution pension fund;

7.22 (vii) the sprinkler fitters national defined benefit pension fund or the sprinkler fitters  
7.23 supplemental defined contribution pension fund;

7.24 (viii) the painters and allied trades national pension fund or a painters and allied trades  
7.25 local defined contribution retirement fund; or

7.26 (ix) the national roofing industry pension fund or a roofers local defined contribution  
7.27 fund.

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