

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH LEGISLATURE**

**S.F. No. 100**

(SENATE AUTHORS: JOHNSON and Petersen, B.)

DATE	D-PG	OFFICIAL STATUS
01/24/2013	91	Introduction and first reading Referred to State and Local Government

A bill for an act

relating to retirement; changing the durational time limit for certain public employees excluded from participation as members of the Public Employee Retirement Association; amending Minnesota Statutes 2012, section 353.01, subdivision 2b.

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

Section 1. Minnesota Statutes 2012, section 353.01, subdivision 2b, is amended to read:

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

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

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

(3) election officers or election judges;

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

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

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

(7) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

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

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

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

(11) students who are serving in an internship or residency program sponsored by an accredited educational institution;

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

(13) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens who are employed by a governmental subdivision under a work permit, or an H-1b visa initially issued or extended for a combined period less than three years of

employment. Upon extension of the employment beyond the three-year period, the foreign citizens must be reported for membership beginning the first of the month thereafter provided the monthly earnings threshold as provided under subdivision 2a is met;

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

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

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

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

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

(19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,

the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

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

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

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

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

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

(25) persons appointed to serve on a board or commission of a governmental subdivision or an instrumentality thereof.

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