

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

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

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

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

(1) persons who are:

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

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

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

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

(2) employees who are:

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

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

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

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

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

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

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

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

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

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

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

(5) persons who are:

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

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

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

(6) persons who are employed:

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

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

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

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

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

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

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

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

(9) employees of the Sibley House Association;

(10) persons who are:

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

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

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

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

(12) persons who are members of a religious order who 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, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended;

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

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

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

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

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

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

(c) Enumerated employees and referenced persons are:

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

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

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

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

(5) a member of the legislature;

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

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

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

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

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

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

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

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

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

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

(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.