

A bill for an act
relating to retirement; Public Employees Retirement Association general
employees retirement plan; Seaway Port Authority of Duluth; including Seaway
Port Authority of Duluth employees in PERA-general retirement coverage;
authorizing the purchase of allowable service credit for prior Seaway Port
Authority of Duluth employment; amending Minnesota Statutes 2010, section
353.01, subdivisions 2a, 6.

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

Section 1. Minnesota Statutes 2010, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees; mandatory membership.** (a) Public employees
whose salary exceeds \$425 in any month and who are not specifically excluded under
subdivision 2b or who have not been provided an option to participate under subdivision
2d, whether individually or by action of the governmental subdivision, must participate as
members of the association with retirement coverage by the general employees retirement
plan under this chapter, the public employees police and fire retirement plan under this
chapter, or the local government correctional employees retirement plan under chapter
353E, whichever applies. Membership commences as a condition of their employment on
the first day of their employment or on the first day that the eligibility criteria are met,
whichever is later. Public employees include but are not limited to:

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

(2) elected county sheriffs;

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

(i) town and city clerk or treasurer;
(ii) county auditor, treasurer, or recorder;
(iii) city manager as defined in section 353.028 who does not exercise the option provided under subdivision 2d; or

(iv) emergency management director, as provided under section 12.25;
(4) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(5) full-time employees of the Dakota County Agricultural Society; ~~and~~
(6) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elected general employee retirement plan coverage before August 20, 2009; and

(7) employees of the Seaway Port Authority of Duluth who are not excluded employees under subdivision 2b.

(b) A public employee or elected official who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) If the salary of an included public employee is less than \$425 in any subsequent month, the member retains membership eligibility.

(d) For the purpose of participation in the MERF division of the general employees retirement plan, public employees include employees who were members of the former Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as members of the MERF division of the association.

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

Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department, unit or instrumentality of state or local government, or any public body established under state or local authority that has a governmental purpose, is under public control, is responsible for the

H.F. No. 1377, as introduced - 87th Legislative Session (2011-2012) [11-2830]

employment and payment of the salaries of employees of the entity, and receives a major portion of its revenues from taxation, fees, assessments or from other public sources.

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

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul or the Seaway Port Authority of Duluth; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district; or the board of a family service collaborative or children's mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled by representatives of governmental units.

(d) A nonprofit corporation governed by chapter 317A or organized under Internal Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a governmental subdivision unless the entity has obtained a written advisory opinion from the United States Department of Labor or a ruling from the Internal Revenue Service

declaring the entity to be an instrumentality of the state so as to provide that any future contributions by the entity on behalf of its employees are contributions to a governmental plan within the meaning of Internal Revenue Code, section 414(d).

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

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

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

Sec. 3. PERA-GENERAL; PRIOR SEAWAY PORT AUTHORITY OF DULUTH SERVICE CREDIT TRANSFER.

Subdivision 1. PERA-general coverage. Employees of the Seaway Port Authority of Duluth on July 1, 2011, are public employees within the meaning of Minnesota Statutes, section 353.01, subdivisions 2 and 2a, and are members of the general employees retirement plan of the Public Employees Retirement Association as of that date.

Subd. 2. Service and salary credit for prior Seaway Port Authority of Duluth employment. (a) Any employee of the Seaway Port Authority of Duluth on the effective date of this section is eligible, on or after July 1, 2011, to transfer to the general employees retirement plan of the Public Employees Retirement Association prior service credit rendered in the employ of the Seaway Port Authority of Duluth as allowable service credit, but not to exceed the maximum set forth in paragraph (c), and prior salary received from employment by the Seaway Port Authority of Duluth as salary credit as provided in paragraph (b).

(b) The amount of allowable service and salary credit to be transferred to the general employees retirement plan for prior Seaway Port Authority of Duluth employment is that portion of the total prior Seaway Port Authority of Duluth employment that bears the same relationship that the assets transferred to the general employees retirement fund with respect to each applicable person bear to the full actuarial value of the benefit attributable to the prior service and salary under Minnesota Statutes, chapters 353 and 356. The full actuarial value of the benefit attributable to the prior service under Minnesota Statutes, chapters 353 and 356, is as provided in Minnesota Statutes, section 356.551. The assets transferred with respect to each applicable person is the person's account balance in the Seaway Port Authority of Duluth federal Internal Revenue Code Section 401(a) retirement plan, the person's account balance in a federal Internal Revenue Code Section 457 deferred

compensation plan, the person's share of any purchase payment amounts that the Seaway Port Authority of Duluth irrevocably commits to contribute to the general employees retirement fund, and any purchase payment amount contributed by the applicable person to the general employees retirement fund. Any amounts from the federal Internal Revenue Code Section 401(a) retirement plan, the federal Internal Revenue Code Section 457 deferred compensation plan, or from a purchase payment amount provided by the Seaway Port Authority of Duluth must be made on an institution-to-institution basis.

(c) If the assets transferred with respect to an applicable person under paragraph (b) are less than the full actuarial value of the benefit attributable to the prior service, the untransferred balance of the prior service and salary may be purchased by the applicable person or a combination of the applicable person and the Seaway Port Authority of Duluth under Minnesota Statutes, section 356.551. No applicable person may purchase more allowable service and salary credit from the general employees retirement plan of the Public Employees Retirement Association than the person's period of employment by the Seaway Port Authority of Duluth rendered before the effective date of this section if the employment would have been eligible service and salary for general employees retirement plan coverage if the service had been rendered or salary received after the effective date of this section.

(d) An applicable person must provide any documentation related to eligibility under the general employees retirement plan that is required by the executive director. Allowable service and salary credit for any period must be transferred and recognized by the general employees retirement plan for an applicable person upon receipt of the associated transferred assets.

(e) Transferred service and salary credit related to the Seaway Port Authority of Duluth before July 1, 1989, does not make a person eligible for a retirement annuity under Minnesota Statutes, section 353.30, subdivision 1a.

(f) Authority to have service and salary credit transferred under this section expires on July 1, 2013, or on the date that the applicable person terminates employment by the Seaway Port Authority of Duluth, whichever is earlier.

Subd. 3. **Status of service transfer amounts.** Notwithstanding any provision of Minnesota Statutes, section 353.32, 353.34, or 353.35, to the contrary, amounts transferred to the general employees retirement fund of the Public Employees Retirement Association under subdivision 2 must be considered to be an accumulated member contribution deduction.

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