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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **4139**

03/10/2022 Authored by Olson, L.; Murphy; Nelson, M., and Schultz
The bill was read for the first time and referred to the Committee on State Government Finance and Elections

- 1.1 A bill for an act
- 1.2 relating to retirement; Public Employees Retirement Association; excluding persons
- 1.3 employed by the Duluth Transit Authority under a collective bargaining agreement
- 1.4 with the Teamsters from participation in the general employees retirement plan;
- 1.5 amending Minnesota Statutes 2021 Supplement, section 353.01, subdivision 2b.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2021 Supplement, section 353.01, subdivision 2b, is amended
- 1.8 to read:
- 1.9 Subd. 2b. **Excluded employees.** (a) The following public employees are not eligible to
- 1.10 participate as members of the association with retirement coverage by the general employees
- 1.11 retirement plan, the local government correctional employees retirement plan under chapter
- 1.12 353E, or the public employees police and fire retirement plan:
- 1.13 (1) persons whose annual salary from one governmental subdivision never exceeds an
- 1.14 amount, stipulated in writing in advance, of \$5,100 if the person is not a school district
- 1.15 employee or \$3,800 if the person is a school year employee. If annual compensation from
- 1.16 one governmental subdivision to an employee exceeds the stipulated amount in a calendar
- 1.17 year or a school year, whichever applies, after being stipulated in advance not to exceed the
- 1.18 applicable amount, the stipulation is no longer valid and contributions must be made on
- 1.19 behalf of the employee under section 353.27, subdivision 12, from the first month in which
- 1.20 the employee received salary exceeding \$425 in a month;
- 1.21 (2) public officers who are elected to a governing body, city mayors, or persons who
- 1.22 are appointed to fill a vacancy in an elected office of a governing body, whose term of office
- 1.23 commences on or after July 1, 2002, for the service to be rendered in that elected position;

2.1 (3) election judges and persons employed solely to administer elections;

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

2.3 (5) except as otherwise specified in subdivision 12a, employees who are employed solely
2.4 in a temporary position as defined under subdivision 12a, and employees who resign from
2.5 a nontemporary position and accept a temporary position within 30 days of that resignation
2.6 in the same governmental subdivision;

2.7 (6) employees who are employed by reason of work emergency caused by fire, flood,
2.8 storm, or similar disaster, but if the person becomes a probationary or provisional employee
2.9 within the same pay period, other than on a temporary basis, the person is a "public
2.10 employee" retroactively to the beginning of the pay period;

2.11 (7) employees who by virtue of their employment in one governmental subdivision are
2.12 required by law to be a member of and to contribute to any of the plans or funds administered
2.13 by the Minnesota State Retirement System, the Teachers Retirement Association, or the St.
2.14 Paul Teachers Retirement Fund Association, but this exclusion must not be construed to
2.15 prevent a person from being a member of and contributing to the Public Employees
2.16 Retirement Association and also belonging to and contributing to another public pension
2.17 plan or fund for other service occurring during the same period of time, and a person who
2.18 meets the definition of "public employee" in subdivision 2 by virtue of other service occurring
2.19 during the same period of time becomes a member of the association unless contributions
2.20 are made to another public retirement plan on the salary based on the other service or to the
2.21 Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

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

2.27 (9) persons who are:

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

(ii) employed as resident physicians, medical interns, pharmacist residents, or pharmacist interns and are serving in a degree or residency program in a public hospital or in a public clinic; or

(iii) students who are serving for a period not to exceed five years in an internship or a residency program that is sponsored by a governmental subdivision, including an accredited educational institution;

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

(11) for the first three years of employment, foreign citizens who are employed by a governmental subdivision, except that the following foreign citizens must be considered included employees under subdivision 2a:

(i) H-1B, H-1B1, and E-3 status holders;

(ii) employees of Hennepin County or Hennepin Healthcare System, Inc.;

(iii) employees legally authorized to work in the United States for three years or more; and

(iv) employees otherwise required to participate under federal law;

(12) 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;

(13) 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;

(14) 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;

4.1 (15) employees in the building and construction trades, as follows:

4.2 (i) pipefitters and associated trades personnel employed by Independent School District
4.3 No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters
4.4 local 455 pension plan who were either first employed after May 1, 1997, or, if first employed
4.5 before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section
4.6 12;

4.7 (ii) electrical workers, plumbers, carpenters, and associated trades personnel employed
4.8 by Independent School District No. 625, St. Paul, or the city of St. Paul, with coverage
4.9 under a collective bargaining agreement by the electrical workers local 110 pension plan,
4.10 the plumbers local 34 pension plan, or the carpenters local 322 pension plan who were either
4.11 first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be
4.12 excluded under Laws 2000, chapter 461, article 7, section 5;

4.13 (iii) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters,
4.14 allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School
4.15 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the
4.16 bricklayers and allied craftworkers local 1 pension plan, the cement masons local 633
4.17 pension plan, the glaziers and glassworkers local 1324 pension plan, the painters and allied
4.18 trades local 61 pension plan, or the plasterers local 265 pension plan who were either first
4.19 employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded
4.20 under Laws 2001, First Special Session chapter 10, article 10, section 6;

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

4.25 (v) electrical workers or pipefitters employed by the Minneapolis Park and Recreation
4.26 Board, with coverage under a collective bargaining agreement by the electrical workers
4.27 local 292 pension plan or the pipefitters local 539 pension plan, who were first employed
4.28 before May 2, 2015, and elected to be excluded under Laws 2015, chapter 68, article 11,
4.29 section 5;

4.30 (vi) laborers and associated trades personnel employed by the city of St. Paul or
4.31 Independent School District No. 625, St. Paul, who are designated as temporary employees
4.32 with coverage under a collective bargaining agreement by a multiemployer plan as defined
4.33 in section 356.27, subdivision 1, who were either first employed on or after June 1, 2018,

5.1 or if first employed before June 1, 2018, elected to be excluded under Laws 2018, chapter
5.2 211, article 16, section 13; and

5.3 (vii) employees who are trades employees as defined in section 356.27, subdivision 1,
5.4 first hired on or after July 1, 2020, by the city of St. Paul or Independent School District
5.5 No. 625, St. Paul, except for any trades employee for whom contributions are made under
5.6 section 356.24, subdivision 1, clause (8), (9), or (10), by either employer to a multiemployer
5.7 plan as defined in section 356.27, subdivision 1;

5.8 (16) employees who are hired after June 30, 2002, solely to fill seasonal positions under
5.9 subdivision 12b which are limited in duration by the employer to a period of six months or
5.10 less in each year of employment with the governmental subdivision;

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

5.18 (18) independent contractors and the employees of independent contractors;

5.19 (19) reemployed annuitants of the association during the course of that reemployment;

5.20 (20) persons appointed to serve on a board or commission of a governmental subdivision
5.21 or an instrumentality thereof; ~~and~~

5.22 (21) persons employed as full-time fixed-route bus drivers by the St. Cloud Metropolitan
5.23 Transit Commission who are members of the International Brotherhood of Teamsters Local
5.24 638 and who are, by virtue of that employment, members of the International Brotherhood
5.25 of Teamsters Central States pension plan; and

5.26 (22) persons employed by the Duluth Transit Authority or any subdivision thereof, who
5.27 are members of the Teamsters General Local Union 346 and who are, by virtue of that
5.28 employment, members of the Central States Southeast and Southwest Areas Pension Fund.

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

- 6.1 **EFFECTIVE DATE.** This section is effective on the date the persons employed by the
- 6.2 Duluth Transit Authority or any subdivision thereof become public employees as defined
- 6.3 in Minnesota Statutes, section 353.01, subdivision 2.