

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

**S.F. No. 273**

(SENATE AUTHORS: PAPPAS)

DATE	D-PG	OFFICIAL STATUS
02/06/2013	159	Introduction and first reading Referred to State and Local Government See SF1191, Art. 2 See SF489, Art. 10

1.1 A bill for an act  
1.2 relating to retirement; Public Employees Retirement Association; revising  
1.3 the definition of salary; amending Minnesota Statutes 2012, section 353.01,  
1.4 subdivision 10.

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

1.6 Section 1. Minnesota Statutes 2012, section 353.01, subdivision 10, is amended to read:

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

1.8 (1) the wages or periodic compensation of paid to a public employee; by the  
1.9 employing governmental subdivision before;

1.10 (i) employee retirement deductions that are designated as picked-up contributions  
1.11 under section 356.62; and

1.12 (ii) any employee-elected tax-sheltered deductions for deferred compensation,  
1.13 supplemental retirement plans, or other voluntary salary reduction programs; and also  
1.14 means "wages" and includes net income from fees that would have otherwise been  
1.15 available as a cash payment to the employee;

1.16 (2) for a public employee who is covered by a supplemental retirement plan  
1.17 under section 356.24, subdivision 1, clause (7), (8), (9), or (10), which require all plan  
1.18 contributions be made by the employer; the contribution contributions to the applicable  
1.19 supplemental retirement plan when an agreement between the parties establishes that the  
1.20 contribution contributions will either result in a mandatory reduction of employees' wages  
1.21 through payroll withholdings, or be made in lieu of an amount that would otherwise be  
1.22 paid as wages; and

1.23 (3) for a public employee who has prior service covered by a local police or  
1.24 firefighters relief association that has consolidated with the Public Employees Retirement

2.1 Association or to which section 353.665 applies and who has elected coverage either  
 2.2 under the public employees police and fire fund benefit plan under section 353A.08  
 2.3 following the consolidation or under section 353.665, subdivision 4, the rate of salary  
 2.4 upon which member contributions to the special fund of the relief association were made  
 2.5 prior to the effective date of the consolidation as specified by law and by bylaw provisions  
 2.6 governing the relief association on the date of the initiation of the consolidation procedure  
 2.7 and the actual periodic compensation of the public employee after the effective date of  
 2.8 consolidation;

2.9 (4) for a public employee who receives payment through a grievance, settlement,  
 2.10 or court order that is attached to a specific period in which the employee's regular salary  
 2.11 was not earned or paid to the member due to suspension, leave of absence, or period of  
 2.12 involuntary termination that is not a wrongful discharge under section 356.50, the amount  
 2.13 that is equivalent to the earnings the member would have otherwise earned during the  
 2.14 applicable period;

2.15 (5) for a member who is absent from employment by reason of an authorized  
 2.16 personal, parental, medical, or military leave of absence, the amount paid to the employee  
 2.17 during the leave period that is equivalent to the earnings the member would have otherwise  
 2.18 earned during the applicable period; and

2.19 (6) for a public employee who receives performance or merit bonus payment under a  
 2.20 written compensation plan, policy, or bargaining agreement, the compensation paid to the  
 2.21 employee for attaining performance goals, duties, or measures during a specified period  
 2.22 of employment. Performance or merit pay may be in addition to regular salary or may  
 2.23 replace regular salary increases.

2.24 (b) Salary does not mean:

2.25 (1) the fees paid to district court reporters;

2.26 (2) unused annual, vacation, personal, or sick leave payments, in the form of  
 2.27 lump-sum or periodic payments, or the value of hours donated under a benevolent vacation  
 2.28 and sick leave donation program;

2.29 (3) payments for accrued compensatory or overtime hours that are made at the time  
 2.30 of separation from service and that include pay for work performed in a calendar or school  
 2.31 year prior to the year in which the payment is issued;

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

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

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

2.35 (7) workers' compensation payments or disability insurance payments, including  
 2.36 payments from self-insured employers;

3.1 ~~(2)~~ (8) employer-paid amounts used by an employee toward the cost of insurance  
3.2 coverage, ~~employer-paid fringe benefits~~, flexible spending accounts, cafeteria plans, health  
3.3 care expense accounts, day care expenses, or any payments in lieu of any employer-paid  
3.4 group insurance coverage, including the difference between single and family rates that  
3.5 may be paid to a member with single coverage and certain amounts determined by the  
3.6 executive director to be ineligible;

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

3.8 (i) employer-paid premiums for all types of insurance;

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

3.10 (iii) incentive payments or cash awards relating to wellness programs;

3.11 (iv) the value of any nonmonetary benefits;

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

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

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

3.18 ~~(3)~~ (10) the amount equal to that which the employing governmental subdivision  
3.19 would otherwise pay toward single or family insurance coverage for a covered employee  
3.20 when, through a contract or agreement with some but not all employees, the employer:

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

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

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

3.29 ~~(4)~~ (11) except as provided in section 353.86 or 353.87, compensation of any  
3.30 kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined  
3.31 in subdivision 35 or 36;

3.32 ~~(5)~~ (12) the amount of compensation that exceeds the limitation provided in section  
3.33 356.611; and

3.34 ~~(6)~~ (13) amounts paid by a federal or state grant for which the grant specifically  
3.35 prohibits grant proceeds from being used to make pension plan contributions, unless the  
3.36 contributions to the plan are made from sources other than the federal or state grant; and

4.1 (14) bonus pay that is not performance or merit pay under paragraph (a), clause (6).  
4.2 (c) Amounts, other than those provided under paragraph (a), clause (4), provided to  
4.3 an employee by the employer through a grievance proceeding, a court order, or a legal  
4.4 settlement are salary only if the settlement or court order is reviewed by the executive  
4.5 director and the amounts are determined by the executive director to be consistent with  
4.6 paragraph (a) and prior determinations.

4.7 **EFFECTIVE DATE.** This section is effective the day following final enactment,  
4.8 except that paragraph (b), clause (9), item (vii), is effective retroactively from August  
4.9 1, 2007.