

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 3169

(SENATE AUTHORS: RASMUSSON)

DATE
03/30/2023

D-PG

OFFICIAL STATUS
Introduction and first reading
Referred to State and Local Government and Veterans

1.1 A bill for an act
1.2 relating to retirement; public employees defined contribution plan; amending
1.3 eligibility to permit appointed local government officials to participate; permitting
1.4 retroactive participation; amending Minnesota Statutes 2022, sections 353D.01,
1.5 subdivision 2, by adding a subdivision; 353D.02, subdivision 1; 353D.03,
1.6 subdivision 1.

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

1.8 Section 1. Minnesota Statutes 2022, section 353D.01, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 1a. **Definitions.** Unless the context clearly indicates that a different meaning is
1.11 intended, the terms defined in this subdivision, for the purposes of this chapter, have the
1.12 meanings given:

1.13 (1) "association" means the public employees retirement association;

1.14 (2) "local government official" means a clerk, treasurer, deputy, and any other employee
1.15 of a municipality or other governmental subdivision who does not satisfy the definition of
1.16 included employee under section 353.01, subdivision 1, is not a member of the police and
1.17 fire plan under section 353.64 or the local government correctional service retirement plan
1.18 under section 353E.02, and is not a city manager as defined in section 353.028; and

1.19 (3) "plan" means the public employees defined contribution plan.

1.20 Sec. 2. Minnesota Statutes 2022, section 353D.01, subdivision 2, is amended to read:

1.21 Subd. 2. **Eligibility.** (a) Eligibility to participate in the ~~defined contribution~~ plan is
1.22 available to:

2.1 (1) ~~any elected or appointed~~ local government ~~officials of a governmental subdivision~~
2.2 ~~official~~ who ~~elect~~ elects to participate in the plan under section 353D.02, subdivision 1, and
2.3 who, for the ~~elected~~ service rendered to a governmental subdivision, ~~are~~ is not ~~members~~ a
2.4 member of the ~~Public Employees Retirement~~ association within the meaning of section
2.5 353.01, subdivision 7;

2.6 (2) physicians who, if they did not elect to participate in the plan under section 353D.02,
2.7 subdivision 2, would meet the definition of member under section 353.01, subdivision 7;

2.8 (3) basic and advanced life-support emergency medical service personnel who are
2.9 employed by any public ambulance service that elects to participate under section 353D.02,
2.10 subdivision 3;

2.11 (4) members of a municipal rescue squad associated with the city of Litchfield in Meeker
2.12 County, or of a county rescue squad associated with Kandiyohi County, if an independent
2.13 nonprofit rescue squad corporation, incorporated under chapter 317A, performing emergency
2.14 management services, and if not affiliated with a fire department or ambulance service and
2.15 if its members are not eligible for membership in that fire department's or ambulance service's
2.16 relief association or comparable pension plan;

2.17 (5) employees of the Port Authority of the city of St. Paul who elect to participate in the
2.18 plan under section 353D.02, subdivision 5, and who are not members of the ~~Public Employees~~
2.19 ~~Retirement~~ association under section 353.01, subdivision 7;

2.20 (6) city managers who elected to be excluded from the general employees retirement
2.21 plan of the ~~Public Employees Retirement~~ association under section 353.028 and who elected
2.22 to participate in the public employees defined contribution plan under section 353.028,
2.23 subdivision 3, paragraph (b);

2.24 (7) volunteer or emergency on-call firefighters serving in a municipal fire department
2.25 or an independent nonprofit firefighting corporation who are not covered by the ~~public~~
2.26 ~~employees~~ police and fire retirement plan and who are not covered by a volunteer firefighters
2.27 relief association and who elect to participate in the public employees defined contribution
2.28 plan;

2.29 (8) elected county sheriffs who are former members of the police and fire plan and who
2.30 are receiving a retirement annuity as provided under section 353.651; and

2.31 (9) ~~persons who are excluded from membership under section 353.01, subdivision 2b,~~
2.32 ~~paragraph (a), clause (23)~~ appointed to serve on a board or commission of a governmental
2.33 subdivision or an instrumentality thereof.

3.1 ~~(b) For purposes of this chapter, an elected local government official includes a person~~
 3.2 ~~appointed to fill a vacancy in an elective office. Service as an elected local government~~
 3.3 ~~official only includes service for the governmental subdivision for which the official was~~
 3.4 ~~elected by the public at large. Service as an elected local government official ceases and~~
 3.5 ~~eligibility to participate terminates when the person ceases to be an elected official. An~~
 3.6 ~~elected local government official does not include an elected county sheriff who must be a~~
 3.7 ~~member of the police and fire plan as provided under chapter 353.~~

3.8 ~~(e)~~ (b) Individuals otherwise eligible to participate in the plan under this subdivision
 3.9 who are currently covered by a public or private pension plan because of their employment
 3.10 or provision of services are not eligible to participate in the public employees defined
 3.11 contribution plan.

3.12 ~~(d)~~ (c) A former participant is a person who has terminated eligible employment or
 3.13 service and has not withdrawn the value of the person's individual account.

3.14 Sec. 3. Minnesota Statutes 2022, section 353D.02, subdivision 1, is amended to read:

3.15 Subdivision 1. **Elected Local government officials.** Eligible elected or appointed local
 3.16 government officials may elect to participate in the defined contribution plan after being
 3.17 elected or appointed to ~~elective~~ public office by filing a membership application on a form
 3.18 prescribed by the executive director of the association authorizing contributions to be
 3.19 deducted from the ~~elected~~ official's salary. Participation begins on the first day of the pay
 3.20 period for which the contributions were deducted or, if pay period coverage dates are not
 3.21 provided, the date on which the membership application or contributions are received in
 3.22 the office of the association, whichever is received first, provided further that the membership
 3.23 application is received by the association within 60 days of the receipt of the contributions.
 3.24 An election to participate in the plan is revocable during incumbency.

3.25 Sec. 4. Minnesota Statutes 2022, section 353D.03, subdivision 1, is amended to read:

3.26 Subdivision 1. **Contributions for eligible participants.** (a) The following classes of
 3.27 eligible participants who elect to participate in the public employees defined contribution
 3.28 plan under section 353D.02 shall contribute an amount equal to five percent of salary as
 3.29 defined in section 353.01, subdivision 10:

3.30 (1) ~~elected~~ local government officials;

3.31 (2) physicians; and

4.1 (3) persons who are excluded from membership under section 353.01, subdivision 2b,
4.2 paragraph (a), clause (23).

4.3 (b) A participant's governmental subdivision shall contribute a matching amount.

4.4 Sec. 5. **REINSTATEMENT OF APPOINTED OFFICIALS; RESUMPTION OF**
4.5 **CONTRIBUTIONS.**

4.6 **Subdivision 1. Reinstatement of appointed officials, election not to participate, and**
4.7 **make-up contributions.** (a) Any local government official whose participation in the public
4.8 employees defined contribution plan under Minnesota Statutes, chapter 353D, ceased on
4.9 or after January 1, 2020, and before the effective date of this section because the official's
4.10 position changed from an elected position to an appointed position, must participate in the
4.11 plan upon the effective date of this section, unless the official elects to opt out of participation
4.12 under paragraph (b).

4.13 (b) An official whose participation in the plan resumes under paragraph (a) may elect
4.14 not to participate in the plan by providing notice to the governing body of the local
4.15 government, no later than 30 days after the effective date of this section, that the official
4.16 does not wish to participate.

4.17 (c) For any official who is reinstated under paragraph (a) and does not elect to opt out
4.18 of participation under paragraph (b):

4.19 (1) the local government must contribute, no later than 60 days after the effective date
4.20 of this section, the matching amount that the local government would have contributed
4.21 under Minnesota Statutes, section 353D.03, subdivision 1, paragraph (b), for the period
4.22 during which the official's participation ceased; and

4.23 (2) the official may contribute, no later than 60 days after the effective date of this
4.24 section, any amount the official elects, but not to exceed the amount that the official would
4.25 have contributed under Minnesota Statutes, section 353D.03, subdivision 1, paragraph (a),
4.26 for the period during which the official's participation ceased.

4.27 **Subd. 2. Resumption of contributions by and for appointed officials.** Contributions
4.28 required under Minnesota Statutes, section 353D.03, subdivision 1, must be made by the
4.29 local government official and the local government beginning with the first full pay period
4.30 following the effective date of this section for any official who resumes participation under
4.31 subdivision 1, paragraph (a), and does not elect to opt out of participation under subdivision
4.32 1, paragraph (b).

5.1 Sec. 6. **EFFECTIVE DATE.**

5.2 Sections 1 to 5 are effective the day following final enactment.