

FACT SHEET

Extending Social Security Coverage to Elected Officials



The 2006 Minnesota State Legislature amended Minnesota Statutes, Chapter 355, which governs Social Security and Medicare coverage for public employees and elected officials. Among other things, the law allows each local governmental subdivision to offer Social Security participation to its current elected officials who hold positions that are covered by the PERA Defined Contribution Plan (DCP) and excluded from the PERA Coordinated Plan. This option applies to Minnesota cities, counties, school districts, townships, and special authorities such as soil and water conservation districts.

Prior to the law change, two groups were not able to contribute to both the DCP and Social Security on their elective service earnings:

1. officials elected to or assuming governing-body positions after June 30, 2002, and
2. officials (governing body and non-governing body) whose earnings will never exceed \$5,100 in a year.

While these two groups are excluded from joining the Coordinated Plan, they have had a choice of either contributing to the DCP or paying Social Security; however, they have not been able to contribute to both.

These elected officials have had to choose between the DCP and Social Security because their positions are not covered by a "section 218 Agreement" with the Social Security Administration (SSA). Under federal laws, the only way that Social Security coverage can be provided to employees or elected officials who are members of, or have the option for membership in, a governmental retirement plan is through a section 218 Agreement. This "voluntary" federal-state agreement establishes the classifications of government positions that shall participate in Social Security. Until the 2006 legislative change, state law did not authorize a modification to Minnesota's 218 Agreement for the DCP elected officials retirement group.

Extending Coverage to Eligible Elected Officials

Under the amended state law, a governmental subdivision may provide Social Security to current and future elected officials covered by the DCP through a modification to Minnesota's 218 Agreement. The law authorizes PERA to modify Minnesota's Agreement on a subdivision by subdivision basis. This means that we can execute a change in Social Security participation for elected officials of one PERA-covered entity and it will not affect any other entity. Nothing in the law requires a governmental subdivision to offer Social Security to its elected officials and no deadlines were established. A subdivision may, therefore, request a section 218 modification at any date in the future or never.

If your subdivision wants to offer Social Security to elected officials in positions covered by the DCP, the first step is to have your governing body adopt a resolution indicating its desire to provide such coverage and the effective date for participation. The Social Security participation may be established retroactively, but may not, under Section 218(e) (1) of federal law, be earlier than the fifth year preceding the year in which your subdivision's 218 modification is mailed to the SSA.

If and when your governing body extends Social Security to elected officials, the second step in the process is for you to schedule a referendum to give each eligible person the oppor-

tunity to individually accept or reject Social Security under the 218 modification that will cover the DCP positions of your subdivision. Eligible elected officials will indicate their Social Security choice by written ballot after they have been given at least 90 day's notice of the referendum. Under state law, you will be responsible for conducting the referendum and paying any associated costs. As the State Social Security Administrator, PERA will supervise the referendum and establish the necessary forms and notices.

Once Minnesota's 218 Agreement is Modified

After the SSA approves a modification to Minnesota's 218 Agreement for your subdivision, you must withhold Social Security and Medicare taxes from the salary of each elected official who voted in favor of Social Security coverage. Your subdivision must match the contributions and report wages and payment to the Internal Revenue Service (IRS) using Form 941. You must also withhold Social Security and Medicare taxes from the salary of all newly elected officials of your subdivision.

If your 218 modification called for retroactive Social Security participation, you must submit to the IRS the applicable past employer and employee amounts using their process for reporting retroactive contributions. For each official who voted in favor of retroactive Social Security,

contributions must be paid back to the effective date of the 218 amendment or the date the particular elected official took office, whichever is later. The payment of these employee and employer contributions must be equal to the taxes which would have been imposed by the Federal Insurance Contributions Act had the elective service been covered by Social Security on the dates the service was performed.

Additional Resources

You may view and download examples of the governing-body resolution and referendum documents from our website (www.mnpera.org) within the Employers Section under Social Security. To learn more about the referendum process, please review the online Referendum Procedures. If you have questions about the law or would like to initiate the referendum process within your city, county, school district, township, or special authority, please call our Employer Line at 651-296-3636 or 1-888-892-7372 and select menu option 3.