

**HF 1201 (Nelson, M.); SF 1393 (Pappas):  
Increasing the annual limit for public employer contributions  
to the International Union of Operating Engineers (IUOE)  
multiemployer pension plan**

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### Introduction

- Affected Plan:** Limit on public funds contributed to a supplemental retirement plan
- Laws Amended:** Minnesota Statutes, [Section 356.24, subdivision 1](#)
- Brief Description:** The bill increases the annual limit on contributions to the IUOE multiemployer pension plan from \$5,000 to \$10,000
- Attachments:** “[Annual Funding Notice](#)” dated May 2022 for the Central Pension Fund of the International Union of Operating Engineers and Participating Employers  
[Schedule of Participating Employers in Minnesota](#)

### Background

Minnesota Statutes, Section 356.24, subdivision 1, prohibits school districts, local governments, and state agencies from contributing public funds to pension or deferred compensation plans that are in addition to the primary pension program that otherwise covers public employees. The statute refers to these plans as “supplemental,” to distinguish them from the “primary” pension plans. Primary pension plans would include the statewide pension plans administered by the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA).

For example, the non-public safety employees of a city are required to participate in PERA’s General Plan and the city is required to contribute to the PERA General Plan on behalf of these employees. This pension plan would be considered the primary pension plan. If a city wanted to adopt its own pension or defined contribution plan for its employees and provide an additional retirement benefit to which public funds would be contributed, that pension plan would be considered a supplemental plan and is prohibited under Section 356.24, subdivision 1, unless an exception applies.

Section 356.24, Subdivision 2, further provides:

*No change in benefits or employer contributions in a supplemental pension plan to which this section applies that occurs after May 6, 1971, is effective without prior legislative authorization.*

So even if a public employer is permitted to sponsor a supplemental pension or retirement plan under one of the exceptions listed in subdivision 1, the employer is not permitted to make a change in benefits or the amount of the employer contributions without “prior legislative authorization.” We are aware that many public employers offer supplemental pension and retirement plans, but none of them have sought legislative authorization to change benefits or employer contributions for many years, perhaps decades, if ever. It’s safe to say changes in benefits and employer contributions to supplemental plans are occurring, without compliance with subdivision 2.

#### Brief history of section 356.24

Section 356.24 was enacted in 1971 and, at that time, was a blanket prohibition against public employers contributing public funds to any supplemental pension or deferred compensation plan, except those already in existence in 1971. The Commission's legislative history files date back only until 1975, so we are not able to verify legislative intent, but it is likely that the law was the result of concern on the part of the legislature that if the State makes available publicly funded pension plans for public employees, individual governmental employers should not be permitted to spend public funds to establish and maintain another (“supplemental”) pension or retirement plan except in limited circumstances.

Since 1971, the list of exceptions to the blanket prohibition has grown. Exceptions now include group health, disability, severance, post-retirement medical, and death benefit plans, the Minnesota Deferred Compensation Plan, other individual account plans, and several multiemployer pension funds.

#### Exceptions for multiemployer pension plans

Multiemployer pension plans, also known as “Taft-Hartley plans,” are collectively bargained plans maintained by more than one employer, usually within the same or related industries, and a labor union. They are typically governed by a board of trustees, on which labor and management are equally represented. According to the Pension Benefit Guaranty Corporation (PBGC), in 2019, there were about 1,400 multiemployer defined benefit pension plans, covering about 10 million participants, many of whom are employed in the building and construction industries.

Five of the exceptions in section 356.24, subdivision 1, are for multiemployer pension plans. In all cases except one, the public funds that may be contributed are limited to an annual dollar amount per employee. We have no legislative history on the reason for the particular annual limit set for each of the multiemployer pension plans. The statute lists the following:

<u>Contribution maximum</u>	<u>Pension fund</u>
<b>\$7,000</b>	<ul style="list-style-type: none"> <li>• Laborers national or local pension fund</li> </ul>
<b>\$5,000</b>	<ul style="list-style-type: none"> <li>• Plumbers and pipefitters national or local pension fund</li> <li>• International Union of Operating Engineers</li> <li>• International Association of Machinists national pension fund</li> </ul>
<b>No limit</b>	<ul style="list-style-type: none"> <li>• International Brotherhood of Teamsters Central States pension plan for fixed-route bus drivers employed by St. Cloud Metropolitan Transit Commission</li> </ul>

Multiemployer plans have been in the news in the last several years because many of them are significantly underfunded. Under laws enacted in 2014, multiemployer plans are permitted to cut otherwise protected pension benefits, including to retirees in pay status, if the plan is projected to run out of money before paying all pension benefits. In late 2022, a package of financial assistance funded with \$36 billion was enacted to begin to shore up the most underfunded of the multiemployer plans.

The laborers pension funds were the subject of a bill introduced in 2016 and included in the 2018 omnibus pension bill, to raise the employer contribution limit per year per employee from \$5,000 to \$7,000. The national fund was in “critical status” or “red zone” status, which means that the fund was less than 65% funded. This underfunded status caused the national fund to implement an annual 10% increase in the employer contributions to be paid by each participating employer, among other rehabilitation measures. This was, in part, the reason union representatives requested legislation in 2016 to increase the \$5,000 per employee annual contribution limit under the statute.

It is nearly impossible for an employer to disengage from a multiemployer plan, short of bankruptcy, which is not likely to occur in the case of a public employer. If an employer withdraws from an underfunded multiemployer plan, the employer is required to pay withdrawal liability that is generally equal to the employer’s proportionate share of the plan’s unfunded vested liabilities, as determined under a statutory formula. Thus, once a public employer begins contributing on behalf of its union employees to a multiemployer plan, there is little that can be done to end participation in the plan.

IUOE multiemployer pension plan

The Central Pension Fund of the International Union of Operating Engineers (IUOE) is a well-funded multiemployer pension plan that provides retirement benefits to over 200,000 participants, including nearly 86,000 current employees. See the attached [“Annual Funding Notice”](#) dated May 2022. A subset of these current employees works for 89 Minnesota cities, townships, counties, school districts, or other governmental subdivisions that are participating employers in the pension plan. See the [attached list](#) provided by a representative of IUOE Local 49.

Section 356.24, subdivision 1, clause (10), limits the amount of the employer contribution that can be contributed to this plan to \$5,000 annually per employee. The IUOE has requested the increase in the limit from the current \$5,000 to \$10,000.

We understand increased contributions results in the employee receiving a larger pension benefit. In other cases that have been before the Commission, increased contributions did not result in an increase in benefits but rather were applied instead to reduce the underfunding.

IUOE representatives provided this explanation of how the benefit is computed (revised for clarity):

This plan provides a pension that is a monthly benefit calculated for each year as follows:

Annual contribution per hour \* number of hours worked in the year \* the multiple (0.0175)

Assuming the contribution is \$1 per hour and the employee works full time, the calculation would be:

$\$1 * 2,080 \text{ hours} * 0.0175 = \text{monthly benefit at retirement age for that one year of contributions, or } \$36.40.$

If the contribution rate per hour doubles, the monthly benefit at retirement age for that one year of contributions would be \$72.80.

The sum of the monthly benefit amounts earned for all years is the total benefit at retirement age.

So, if an employee works 20 years with a \$2 per hour contribution rate, the employee would receive \$1,456 per month at retirement. If the rate were \$4 per hour, the employee would receive \$2,912 per month.

Under the current limit of \$5,000, staff calculates that the contribution rate could not exceed \$2.40 per hour, for full time employees working 2,080 hours per year. In the example of an employee with 20 years of service, a contribution rate of \$2.40 per hour for each year would provide a monthly benefit of approximately \$1,750 per month.

#### Primary pension is a pension from PERA General Plan

These employees will also receive a pension from the PERA General Plan for the same service. Were these employees to be exempted from PERA, as are many other employees covered by other multiemployer pension plans, there would be no reason for the statute to provide this exception and the annual contribution limit. See section 353.01, subdivision 2b, clause (15) for the list of employees covered by other multiemployer plans that are "excluded employees" for PERA purposes.

### **Summary of HF 1201 (Nelson, M.); SF 1393 (Pappas)**

The bill is one section that amends section 356.24, subdivision 1, clause (10), to increase the annual limit on employer contributions to the IUOE pension fund from \$5,000 to \$10,000. As explained above, section 356.24, subdivision 1, prohibits school districts, other governmental subdivisions, or state agencies from contributing "public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the employees" except as provided in clauses (1) through (14). Clause (10) is the exception for contributions

to the IUOE pension fund. The plan is considered a “supplemental” pension plan because the employees covered by this plan will also receive a pension from the PERA General Plan.

Staff calculates that the increase in the annual limit would allow the IUOE to negotiate up to an annual contribution rate of \$4.80 per hour for a full-time employee working 2,080 hours per year. In the example of an employee with 20 years of service, a contribution rate of \$4.80 would result in a monthly benefit at retirement age of \$3,500.