

November 3, 2003

Mr. Lawrence A. Martin
Executive Director
Legislative Commission on Pensions and Retirement
55 State Office Building
100 Rev. Dr. MLK Jr. Blvd.
St. Paul, MN 55155-1201

RE: MSRS – Correctional Retirement Plan Membership Eligibility Review

Dear Mr. Martin:

Thank you for your letter and report dated October 9, 2003. I found the report to be very thorough and I appreciate your and the Commission's efforts with respect to the Correctional Retirement Plan. I am optimistic about the upcoming Commission meetings you reference in your letter and look forward to the discussions.

I would also like to take this opportunity to provide you with some additional information regarding the role of the Department of Employee Relations (DOER) with respect to the class title changes, statutory references to said titles, and the lack of incumbents in specific classes at specific locations which you noted in your report.

The first section in your letter that I would like to comment on is "Unclear or Questionable Plan Inclusion Authority." While I cannot comment on the substantive issue of whether those classes titles are appropriately placed in the Correctional Retirement Plan, I can comment on why some of these titles do not appear on list you reviewed on the DOER website. Based on the website address you list in two places in your analysis, it appears the list you viewed is not a class title list. Rather, the list you reviewed is a list used for Hay point ratings which explains why you were unable to find some of the class titles you list. For future reference, a complete and updated class title list can be found at:

http://www.doer.state.mn.us/lr-salry/JOB_LIST_SAL_PLAN.pdf

Additionally, seven (7) of titles listed are only partial class titles and therefore would be difficult to find on the class list. The complete title is as follows:

1. Corrections Manufacturing Specialist – Auto Body
2. Corrections Manufacturing Specialist – Graphics
3. Corrections Manufacturing Specialist – License Plant
4. Corrections Manufacturing Specialist – Light Assembly
5. Corrections Manufacturing Specialist – Light Manufacturing
6. Corrections Manufacturing Specialist – Mechanical
7. Corrections Manufacturing Specialist – Transportation Warehouse

Second, I would like to comment on the section of your letter titled “Unaccommodated (sic) Occupational Title Changes.” In this section, you reference three (3) class titles for which there is no clear statutory authority for their inclusion in the retirement plan. You also note that this may simply be as a result of title changes and not significant duty changes, which is the correct reason. I would like to provide you with some additional information with respect to the titles you specifically list.

Several years ago, the Department of Employee Relations (DOER) merged a number of clerical classes into a consolidated series. The class title of “Stores Clerk” was included in that class merger and became part of Central Services Administrative Specialist (CSAS). Stores Clerk, Senior and Stores Operations Coordinator and/or Inventory Controller positions were respectively re-titled CSAS, Senior and CSAS, Principal. While this was the result of a class merger, there were no changes in the duties and/or responsibilities of these positions, it was essentially a title change. Title changes are typically made in an effort to more accurately reflect the duties of the position and are not intended to reflect a change in duties.

Additionally, your letter references the Correctional Program Therapist position and questions if that class is the successor of the Correctional Behavior Therapist class. DOER created the Correctional Program Therapist 1, 2, and 3 on March 19, 1996. Subsequent to the creation of these new classes, DOER formally abolished the Correctional Behavior Therapist and Correctional Behavior Therapist Specialist on December 31, 1997. All employee who were in a the Correctional Behavior Therapist and Correctional Behavior Therapist, Specialist position were moved into a Correctional Program Therapist 1, 2, and 3 position and then the preceding classes were abolished.

In both of the above situations there were no substantive changes to the duties and/or responsibilities of these positions. It is my understanding that if the position met the statutory criteria for inclusion in the Correctional Retirement Plan prior to the class merger or the creation and abolishment of a class series, the position would continue to meet the criteria under the new class title.

Third, I would like to comment on the section of your letter titled “Obsolete Occupational Titles or Facility References.” In this section, you list a total of eighteen (18) positions for which there is no current incumbent and suggest that these statutory references should be eliminated. I must respectfully disagree with this assertion. In today’s age of budget constraints, per diem reduction plans, and increasing costs of housing inmates and residents, both the Departments of Corrections and Human Services must manage vacancies. This means that while a position may remain vacant for what appears to be an extended period of time, the vacancy is simply indicative of the agency attempting to manage its budget. Eliminating the statutory reference would create the very issue the Departments of Corrections and Human Services currently face with the opening of the Minnesota Correctional Facility at Rush City and the conversion of Minnesota Sexual Psychopathic Personality Treatment Center at Moose Lake.

Finally, I would like to comment on a couple of the issues listed in the “General Comments” section of your letter. My comments are as follows:

- a. No Process to Accommodate New Facility Creation. I agree that the opening of the Minnesota Correctional Facility – Rush City and the conversion of Minnesota Sexual Psychopathic Personality Treatment Center at Moose Lake, does create a problem that needs to be addressed. At the time M.S. §391.91, Subd. 4 was repealed, both of these institutions were still in the planning phase, so a number of positions that should be covered are not, and as you note, the positions can only be added via

legislation. I agree that some other process to accomplish this end would be assistive. However, the Legislature and/or Commission would need to ensure that the process contained the necessary safeguards to prevent inappropriate movement of positions for other than those created by the opening of a new institution.

- b. No Process to Handle Position Title Changes. DOER acknowledges the class title changes that were not changed in statute, however, I am unaware of any requirement applicable to any agency that would mandate the drafting of corrective legislation. That said, I do understand and agree with your assessment that there needs to be a process through which the Commission and/or the Legislature is notified of these simple title changes. Further, it is my opinion that this responsibility is best delegated to the Departments of Corrections and Human Services because these agencies are in the unique position of knowing when a statewide class title change affects a specific position that is covered by the Correctional Retirement Plan in one of the Departments' facilities or locations. Even though the Departments of Corrections and Human Services are in this unique position, my staff and I are willing to work closely with those Departments to ensure timely notice to the Commission and/or Legislature of these changes.
- c. No Process to Handle Position Duty or Hazard Changes. DOER acknowledges that there needs to be a process through which positions that no longer meet the statutory criteria can be removed from the Plan. I agree with your assessment that once a position receives coverage under the Plan, it is not subsequently reviewed or audited to ensure the placement continues to be appropriate. However, even if the Departments currently engaged in such reviews or audits, the only process through which a position may be removed from the plan is via legislation. Therefore, in order to maintain the integrity of this plan, it is my opinion that a removal process is imperative, but again, that process must contain the appropriate safeguards to ensure that positions are not removed from coverage for malicious or retaliatory reasons.

In conclusion, the Department of Employee Relations does not dispute any of the analysis contained in your letter dated October 9, 2003 or in the attachments, specifically Attachment E, to the letter. I appreciate the opportunity to comment on this situation, and again, look forward to additional discussions regarding the Plan.

Sincerely,

Cal R. Ludeman
Commissioner

cc: Paul A. Larson, Deputy Commissioner, Department of Employee Relations
Joan Fabian, Commissioner, Department of Corrections
Kevin Goodno, Commissioner, Department of Human Services
Dave Bergstrom, Executive Director, Minnesota State Retirement System