



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director *EB*  
RE: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold): MSRS Administrative Provisions  
DATE: March 1, 2007

General Summary of H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)

H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold) makes accrual date revisions in the Legislators and Judges plans to make them consistent with other Minnesota State Retirement System (MSRS) plans; clarifies University of Minnesota employee coverage; permits General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) coverage for incidental employment as state employees by teachers; revises interest payment requirements on authorized unpaid leaves of absence and requires full actuarial value payment if payment is not received within one year of the end of the leave; removes the death while active or deferred five-year, term-certain survivor option and removes the 75 percent of prior pay limit on those benefit amounts; clarifies applicable contribution rates on breaks in service to provide military service; clarifies the application of MSRS law to State Fire Marshal employees; adds an anti-garnishment provision to the health care savings account law; clarifies Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) coverage groups; authorizes transfers from MSRS-Unclassified to MSRS-General up to one month after termination of employment; removes all retroactivity to MSRS-Unclassified annuities; and revises the MSRS/Public Employees Retirement Association (PERA) combined payment provision.

Section-by-Section Summary and Analysis

Section 1 amends Minnesota Statutes, Section 3A.02, Subdivision 1, the Legislators Retirement Plan retirement qualification provision, by having the annuity accrue following the executive director's receipt of the application rather than beginning with the first day of the month of receipt of application; by removing obsolete language; and by clarifying that an unreduced retirement requires that the annuity commence no earlier than normal retirement age (currently age 62).

Section 1 can be considered to be the Legislators Retirement Plan normal retirement age provision. The proposed revision clarifies the provision and removes obsolete language, but one question is whether it also may slightly revise accrual dates.

Policy issues raised by Section 1 are:

1. Possible Delay in Accrual Date. While the new language seems to revise accrual dates, the change may not have any substantive impact. The existing law language (which is being stricken) states (page 2, lines 8-9) that the annuity accrues "beginning with the first day of the month" in which the application is received. That suggests that if the application is made on, for example, the 20<sup>th</sup> of the month, the annuity is retroactive to the first of the month. In contrast, the new language states that the annuity accrues "following receipt by the director." That suggests that if application is made on the 20<sup>th</sup> the annuity would now accrue on the 20<sup>th</sup> rather than retroactive to the first of the month, or possibly in practice it would commence on the first day of the following month. However, none of this may matter because of existing law language, page 2, lines 14-16, which allows annuities to be retroactive up to 180 days. Thus, under the existing law language and under the proposed language, it seems that the retiring legislator could have the annuity accrue at the beginning of the month in which the application is made, or even earlier, provided that on or before the specified accrual date the legislator had left the Legislature and satisfied applicable age and service requirements.
2. Consideration of Legislators Plan Early Retirement Provision Revision. **Amendment H1139-1A** could be used to also clarify the plan's early retirement provision, Section 3A.02, Subdivision 1b, to more clearly state the minimum early retirement age, which is age 55, and to remove obsolete language. Under existing law, that minimum early retirement age was described, but not specified, to be set by the MSRS board with a requirement that it not be earlier than the MSRS-General early retirement age. When the board implemented that provision several years ago, it set the Legislators Retirement Plan early retirement age equal to that of MSRS-General, which is age 55. This amendment can be used to insert age 55 in place of the process described in the law to set that age.

Section 2 amends Minnesota Statutes, Section 352.01, Subdivision 2a, the MSRS-General included employees provision, by removing obsolete language and by clarifying that MSRS coverage includes employees of the University of Minnesota unless excluded by action of the University Board of Regents.

MSRS proposes to remove from the included employee provision employees of the Disabled American Veterans and Veterans of Foreign Wars if employed before July 1, 1963, and employees of the Armory Building Commission. Also, MSRS would add a University of Minnesota reference. That proposed language is a mirror opposite of language currently in the MSRS excluded employee provision. That existing law language, which appears on page 4, lines 14 and 15, excludes from MSRS coverage any University of Minnesota employees excluded by the Board of Regents.

Section 3 amends Minnesota Statutes, Section 352.01, Subdivision 2b, the MSRS-General excluded employees provision, by moving language to more appropriate clauses; by clarifying that independent contractors are excluded regardless of the payment arrangement excluding interns hired for six months or less unless the individuals are eligible for an immediate appointment at the end of that period; by removing obsolete language related to the Comprehensive Employment and Training Act (CETA); and by permitting MSRS-General coverage for teachers for incidental employment as a state employee not covered by one of the teacher retirement associations.

Policy issues raised by Section 3 are:

1. Implications of Intern Language. The Commission may wish to have testimony from MSRS regarding the proposed language for interns to determine whether this is a substantive change which could create harm, or whether it amounts simply to clarification. (On page 5, lines 18 to 19, MSRS is adding a statement that formally excludes from coverage “interns hired for six months or less” unless the individuals are eligible for immediate appointment to a permanent position at the end of the intern period.) The new language may be intended as clarification that interns are another name for or are equivalent to “trainee employees” who are already excluded from coverage unless they qualify for immediate appointment at the end of that period.

**Amendment H1139-2A** would remove the proposed intern language.

2. Implications of Expanding Coverage to Include Certain Incidental Employment by Teachers. The language on page 5, lines 28 and 29, would allow certain teachers who are receiving a full year of service and salary credit in a teacher pension plan to be covered by MSRS-General for incidental employment as a state employee not covered by a teacher plan. An example provided by MSRS is that of a teacher who has a full year of coverage by the applicable teacher plan due to teaching service provided during the school year, and who is employed in the summer as a groundskeeper or maintenance worker at a state university. This secondary employment is state employment that would ordinarily qualify the individual for MSRS-General coverage, but existing law prohibits that coverage because of language (page 5, lines 25 to 27) excluding the individual due to the full year of teacher plan coverage.

The most likely justification for the existing law language is to prohibit double coverage. Under that existing language, state employees who are teachers and who are covered for that teaching employment by a teacher plan cannot also be covered for that same employment by MSRS-General. However, it is unclear the extent to which the existing law language reflects an intended legislative policy regarding incidental state employment situations by teachers.

Under existing law, a teacher who provides some additional employment beyond that necessary to qualify for a full year of service in the teacher plan will be treated differently for pension purposes depending upon the nature of the incidental employer. If the additional employment is teaching summer school for the same school district or another district covered by the plan, the additional salary would be included for pension purposes and would boost the eventual pension computation amount if it fell within the highest five salary years. However, if the supplemental employment was as a state employee in work not covered by the teacher plan, that employment would be uncovered. Under current law, MSRS is prohibited from providing coverage.

MSRS is proposing to allow MSRS-General coverage for that incidental employment situation. The outcome would be similar to having all employment covered by the teacher plan, except that the eventual total pension benefit would be the sum of benefits from two plans, the teacher plan and MSRS-General, rather than from one plan. Presumably, the Combined Service Annuity provision, Section 356.30, would be used, and the benefit would be based on the combined salary from both positions, assuming these years fell into the high-five years.

