



H.F. 1911
(Murphy, M.)

S.F. 937
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352.91, Subdivisions 3d and 4b
General Nature of Proposal: Adds additional Department of Corrections employees to plan coverage
Date of Summary: April 23, 2007

Specific Proposed Changes

- Adds two occupational titles, involving nine State Department of Corrections employees to the MSRS-Correctional Plan.
- Permits the transfer of MSRS-General service credit to MSRS-Correctional for past correctional service.

Policy Issues Raised by the Proposed Legislation

1. Adequacy of the assessment/determination process.
2. Extent of actual inmate/patient/client contact in the recommended inclusions.
3. Extent of compliance with other historic MSRS-Correctional coverage requirements
4. Appropriateness of inclusion in light of lack of transfer recommendations in 1996, 1998, 1999, and 2006.
5. Appropriateness of the elimination of laundry coordinator position from MSRS-Correctional membership.
6. Actuarial condition of MSRS-Correctional.
7. Budget impact on department from coverage transfers.
8. Appropriateness of retroactive coverage for past position service.

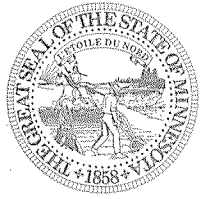
Potential Amendments

H1911-1A (substantive) addresses MSRS-Correctional contribution deficiency with contribution increases over current phase-in period.

H1911-2A (substantive) addresses MSRS-Correctional contribution deficiency with additional two-year extension to the current phase-in period.

H1911-3A (substantive) allows transfer of prior correctional service credit to MSRS-Correctional from MSRS-General with additional member contribution payment.

H1911-4A (substantive) adds additional employer contributions to prior service credit transfer payment obligation.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: H.F. 1911 (Murphy, M.); S.F. 937 (Betzold): MSRS-Correctional; Including Additional Department of Corrections Employees in Plan Coverage

DATE: April 23, 2007

Summary of H.F. 1911 (Murphy, M.); S.F. 937 (Betzold)

H.F. 1911 (Murphy, M.); S.F. 937 (Betzold) amends Minnesota Statutes, Section 352.91, Subdivisions 3d and 4b, portions of the statutes governing the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) that define the employment positions with the Department of Corrections that are covered by the plan, by adding the positions of corrections program therapist (__ employees) and plant maintenance engineer lead (one employee) by requiring the department review committee to evaluate eligible prior service credit for potential transfer to MSRS-Correctional; and by providing for past service credit transfers for 2006 and 2007 newly included personnel who desire to do so.

Background Information

- a. MSRS-Correctional Retirement Plan. Background information on the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) is contained in Attachment A.
- b. Department of Corrections Facilities with MSRS-Correctional Plan-Covered Employees. Background information on the three facilities/programs operated by the Department of Corrections with employees covered by the MSRS-Correctional Plan is set forth in Attachment B.
- c. Department of Corrections correctional employee retirement plan policy. The Department of Corrections correctional employee retirement plan policy, Minnesota Statutes, Section 352.91, Subdivision 4b, is set forth in Attachment C.

Analysis and Discussion

H.F. 1911 (Murphy, M.); S.F. 937 (Betzold) amends the membership inclusion provisions of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) to add to plan coverage two occupational titles within the Department of Corrections, involving nine current state employees, to add past service credit transfer eligibility to the internal eligibility determination process, and to provide for potential transfers newly included in plan coverage in 2006 and 2007.

The proposed legislation raises numerous pension and related public policy issues for Commission consideration and discussion as follows:

1. Adequacy of the Assessment/Determination Process. The policy issue is the adequacy of the process implemented by the Department of Corrections for identifying departmental employment positions for potential inclusion in the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and its determination of positions for recommendation to the Legislature. Since the MSRS-Correctional Plan was expanded from prison guards and security hospital guards in 1974, both explicit statutory requirements for coverage and historic requirements for coverage have been utilized to decide which occupational positions to include in the plan coverage. If the department has internalized the statutory and historic criteria and has seriously and rigorously implemented those criteria in making its recommendations, the Commission and the Legislature can rely on that process without any extensive or intensive scrutiny of the recommendations. This is the second year that the department has undertaken these formal reviews with a recommendation of statutory additions and deletions, with the internal process still likely to be in its formative stages or subject to refinement. The process utilized by the Department of Corrections is governed by Minnesota Statutes, Section 352.91, Subdivision 4b, as set forth in Attachment C. The Commission should take sufficient testimony from the department and collective bargaining representatives to gain a comfort level about the department's seriousness, rigor, and conformity to explicit and historic special retirement plan coverage standards in its process.

2. Extent of Actual Inmate/Patient/Client Contact in the Recommended Inclusions. The policy issue is whether or not the two occupational positions and the nine incumbents in those positions recommended by the department actually engage in the required 75 percent of working time direct inmate or patient contact requirement contained in Minnesota Statutes, Section 352.91. The Commission staff reviewed each supplied job description and assessed the job description percentage attribution elements for inmate or patient contact, either “unclear” if contact was not predominantly or exclusively indicated, “clear” if contact was predominantly or exclusively indicated, and “none indicated” where inmate or patient contact is not indicated at all. While the Commission staff appraisal of the job descriptions is not a substitute for the rigorous process that the department was required to utilize in making its recommendations, the analysis does allow the Commission to focus on those recommendations that might be borderline qualified or actually unqualified. Based on the job description appraisal of the extent of inmate contact, the Commission staff recommends that the Commission take additional testimony or additional appropriate steps to verify the extent of actual contact for the following employment positions for the following identified reasons:

- a. “No contact” elements totaled at least 25 percent of working time. One Department of Corrections job descriptions has work elements that included no indicated contact with inmates or patients and the total of those elements is more than nominal. The position that may merit additional scrutiny by the Commission in this regard is the Plant Maintenance Engineer Lead.
- b. “Unclear contact” percentage very large. The other Department of Corrections job descriptions have elements of inmate contact, but have elements without the inmate contact items appearing to predominate. The position that may merit additional scrutiny in this regard is the Corrections Program Therapist 4 at the various correctional facilities other than MCF-St. Cloud.

The process of the Department of Corrections relating to the evaluation of potential inclusion in the MSRS-Correctional Plan does not reference the use of actual job audits by a human resources professional (either facility-based or non-facility), although job audits may actually have been a part of the process. If the positions identified above were the subject of job audits by a disinterested human resources professional and if records of the applicable audits were available for Commission or Commission staff review, the Commission could more reasonably rely on the results of review job audits.

3. Extent of Compliance With Other Historic MSRS-Correctional Plan Coverage Requirements. The policy issue is the extent of compliance by the Department of Corrections with other coverage transfer requirements that the Commission has historically utilized. Since the Commission first reviewed demands from trades personnel and special teachers to be included in MSRS-Correctional Plan coverage in 1974, the Commission has considered as part of its consideration of potential MSRS-Correctional membership inclusion the questions of:

- i. whether or not the considered occupational position was responsible to intervene in the event of a facility incident;
- ii. whether or not the extent that workers’ compensation claims support the notion that the hazards of the positions approximate that of a public safety position; and
- iii. whether or not the extent that the position’s duty days lost to incidents or employment hazards are consistent with a public safety-like position.

The Commission staff requested from the department information on the compliance of the various occupational positions recommended for MSRS-Correctional Plan inclusion with these historic requirements. For the Department of Corrections employees, department information indicated that all of the employees proposed for MSRS-Correctional inclusion have, as an employment requirement, the obligation to intervene in the event of a facility incident. With respect to workers’ compensation claims, the department provided claims information for seven employees, but only one of those employees is proposed for inclusion in MSRS-Correctional and that employee had two claims, one an injury from a patient altercation and one an allergic reaction to spraying a chemical disinfectant. With respect to lost work time from facility incidents or employment hazards, the department reported any lost time by employees was covered by workers’ compensation.

From the provided information, the hazards of the employment position are not independently substantiated and must be assessed from other indicators.

4. Appropriateness of Inclusion in Light of Lack of Transfer Recommendations in 1996, 1998, 1999, and 2006. The policy issue is the appropriateness of the proposed transfers when the occupational positions were not recommended for transfer to the MSRS-Correctional Plan in 1996, the last comprehensive review of the Department of Corrections and transfer recommendation process for the

