



H.F. 1912
(Murphy, M.)

S.F. 423
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352.91, Subdivisions 3a and 3f
General Nature of Proposal: Inclusion of additional Department of Human Services employees in plan coverage
Date of Summary: April 23, 2007

Specific Proposed Changes

- Adds nine occupational titles, involving 30 current employees of the State Department of Human Services, to the MSRS-Correctional Plan.

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 in light of lack of transfer recommendations in 1996, 1998, 1999, and 2006.
5. Actuarial condition of MSRS-Correctional.
6. Budget impact on department from coverage transfers.
7. Appropriateness of adding positions without incumbents to Minnesota Statutes, Section 352.91, Subdivision 3e.
8. Undressed issue of retroactive coverage for past position service.

Potential Amendments

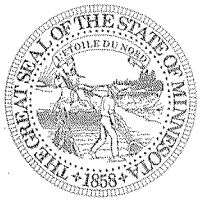
H1912-1A (substantive) addresses MSRS-Correctional contribution deficiency with contribution increases over current phase-in period.

H1912-2A (substantive) addresses MSRS-Correctional contribution deficiency with additional two-year extension to the current phase-in period.


H1912-3A (substantive) eliminates from coverage a position proposed for inclusion but lacks any incumbents.

H1912-4A (substantive) allows transfer of prior correctional service credit to MSRS-Correctional from MSRS-General with additional member contribution payment.

H1912-5A (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 

RE: H.F. 1912 (Murphy, M.); S.F. 423 (Betzold): MSRS-Correctional; Including Additional Department of Human Services Employees in Plan Coverage

DATE: April 23, 2007

Summary of H.F. 1912 (Murphy, M.); S.F. 423 (Betzold)

H.F. 1912 (Murphy, M.); S.F. 423 (Betzold) amends Minnesota Statutes, Section 352.91, Subdivisions 3a and 3f, portions of the statutes governing the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) that define the employment positions within the Department of Human Services that are covered by the plan, by correcting the title of one currently included employment position in the Minnesota Extended Treatment Options Program (METO) and by including in plan coverage nine additional employment positions (30 state employees) at the Minnesota Security Hospital or in the Minnesota Sex Offender Program, and by removing from plan coverage one occupational title within the Department of Human Services without any incumbents.

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 Human Services Facilities with MSRS-Correctional Plan-Covered Employees. Background information on the three facilities/programs operated by the Department of Human Services with employees covered by the MSRS-Correctional Plan is set forth in Attachment B.
- c. Department of Human Services 2005 Correctional Employee Retirement Plan Policy. The Department of Human Services 2005 correctional employee retirement plan policy is set forth in Attachment C.

Analysis and Discussion

H.F. 1912 (Murphy, M.); S.F. 423 (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 nine occupational titles within the Department of Human Services, involving 30 current state employees, to remove one occupational title within the Department of Human Services without an incumbent, from plan coverage, and corrects the name of one occupational title with the Department of Human Services, with four incumbents, to reflect recent nomenclature changes.

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 Human Services 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 Human Services is governed by its policy set forth in Attachment D. If the Commission is going to defer to or rely on this determination process, the Commission should take sufficient testimony from the department 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 nine occupational positions and the 30 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. **Attachment D** summarizes the information on inmate or patient contact contained in the job descriptions provided by the Department of Human Services, including an assessment certification form completed by supervisory staff. 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, “employment with mix” where the inmate or patient contact occurred in the context of employment duties for another program not covered by the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), 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 presumably rigorous process that the department utilized 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 or patient contact, the Commission staff would recommend 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. Some Department of Human Services job descriptions have 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 Customer Service Specialist Principal position.
- b. “Unclear contact” percentage very large. Some Department of Human Services job descriptions have elements of inmate contact and elements without the inmate contact items appearing to predominate. The positions that may merit additional scrutiny in this regard are:
 - Customer Service Specialist Principal
 - Management Analyst 3
 - Recreation Therapist, Lead
 - Security Supervisor
- c. “Clear” contact elements less than 75 percent of working time. The Department of Human Services job descriptions have work time elements that clearly indicate inmate or patient contact, but those “clear contact” element totals are less than 75 percent. The positions that may merit additional scrutiny by the Commission in this regard are:
 - Customer Service Specialist Principal
 - Human Services Support Specialist
 - Management Analyst 3
 - Recreation Therapist, Lead
 - Security Supervisor

The written process of the Department of Human Services 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 (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 reasonably could 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 Human Services 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:

- a. whether or not the considered occupational position was responsible to intervene in the event of a facility incident;
- b. 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
- c. 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.

