



H.F. 2124/2125
(Murphy, M., by request)

S.F. 1664/1663
(Betzold)

(In the form of delete-all amendment H2124-1A)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional and State Patrol Retirement Plan
Relevant Provisions of Law: Minnesota Statutes, Sections 352.95; 352B.01; 352B.10; and 352B.105
General Nature of Proposal: Adds new disability definitions and revises age at which disabilitants transfer from disability to normal retirement
Date of Summary: April 23, 2007

Specific Proposed Changes

- Adds definitions of duty disability, regular disability, normal duties, and less frequent duties.
- Revises the age that plan disabilitants transfer from disability status to normal retirement status from general age 65 to general age 55.

Policy Issues Raised by the Proposed Legislation

1. Legislative intent problem; the definitions will be non-operative which can create a legislative intent problem; adopting definitions without corresponding changes in the actual disability benefit provisions conflicts with statute that presumes that all changes in law are presumed to have meaning.
2. Proper notice; the proposed changes in State Patrol Retirement Plan definitions were not included in the original bills.
3. Age Discrimination Act (ADA); whether the proposed changes are ADA compliant.
4. Eligible transfer groups; it is unclear whether the changes are intended to apply to existing disabilitants, new disabilitants, or just to new hires.

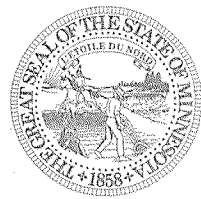
Potential Amendments

H2124-2A removes all the disability-to-retirement transfer age provisions.

H2124-3A removes the inoperative definitions. (This amendment should not be used with H2124-2A; the two amendments together would remove all sections.)

H2124-4A could be used, if the Commission chooses to retain the disability-to-retirement transfer provisions, to include coverage of existing employees and disabilitants, and to specify transfer procedures for the existing disabilitants.

H2124-5A, an alternative to H2124-4A, would have the transfer provisions apply to any individuals who become disabled after the effective date but not to existing disabilitants.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 2124 (Murphy, M., by request); S.F. 1664 (Betzold), and
H.F. 2125 (Murphy, M., by request); S.F. 1663 (Betzold), in the form of Delete-Everything
Amendment H2124-1A: MSRS-Correctional/State Patrol; Amending Disability Benefit
Provisions, Revising Disabilitant Transfer-to-Retirement Age, Creating Disability Definitions

DATE: April 16 , 2007

Introduction

David Bergstrom, Executive Director of the Minnesota State Retirement System (MSRS), has requested that H.F. 2124 (Murphy, M., by request); S.F. 1664 (Betzold) and H.F. 2125 (Murphy, M., by request); S.F. 1663 (Betzold) be considered in the form of delete-everything amendment H2124-1A, which is drawn to H.F. 2124/S.F. 1664.

Summary of Delete-Everything Amendment H2124-1A

Delete-everything amendment H2124-1A adds definitions of regular disability, duty disability, normal duties, and less frequent duties to the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and the State Patrol Retirement Plan, and revises the MSRS-Correctional and State Patrol Retirement Plan disabilitant transfer to normal retirement status at normal retirement age provisions to require transfer to the normal retirement status at age 55 or the five-year anniversary of the effective date of the disability, whichever is later, rather than at age 65 or the five-year anniversary of the effective date of the disability, whichever is later.

Background Information

- A. MSRS-Correctional. Background information on the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), the actuarial condition of MSRS-Correctional, and MSRS-Correctional disability issues is set forth in Attachment A.
- B. State Patrol Retirement Plan. Background information on the MSRS-administered State Patrol Retirement Plan, the actuarial condition of the State Patrol Retirement Plan, and State Patrol Retirement Plan disability issues is set forth in Attachment B.
- C. Age Discrimination Issues and the ADA. Background information on age discrimination issues and the Age Discrimination Act of 1967 (ADA) is set forth in Attachment C.

Section-by-Section Summary

Section 1 adds a "regular disability" definition for MSRS-Correctional, defined as a physical or psychological condition expected to last at least one year which prevents a member from performing the normal duties of the employment position, and which results from a disease or injury arising from activities while not at work, or while at work but performing duties that do not present inherent dangers specific to the occupations covered by MSRS-Correctional.

Section 2 adds a "duty disability" definition for MSRS-Correctional, defined as a physical or psychological condition expected to last at least one year which prevents a member from performing the normal duties of the employment position, and which results from a disease or injury arising from activities while at work and performing duties that present inherent dangers specific to the occupations covered by MSRS-Correctional.

Section 3 adds a "normal duties" definition for MSRS-Correctional, defined as specific tasks designated in the job description and performed on a frequent basis.

Section 4 adds a "less frequent duties" definition for MSRS-Correctional, defined as tasks designated in the job description and performed occasionally or when assigned.

Section 5 revises the MSRS-Correctional medical evidence provision, Section 352.95, Subdivision 4, to conform to the change in disability to retirement transfer date provisions in Section 6.

Section 6 revises the MSRS-Correctional disabilitant retirement status at normal retirement age provision (Section 352.95, Subdivision 5) to require transfer to the normal retirement status at age 55 or the five-year anniversary of the effective date of the disability, whichever is later, rather than at age 65 or the five-year anniversary of the effective date of the disability, whichever is later, and by making corresponding changes in optional annuity election dates.

Section 7 adds a “regular disability” definition for the State Patrol Retirement, defined as a physical or psychological condition expected to last at least one year which prevents a member from performing the normal duties of the employment position, and which results from a disease or injury arising from activities while not at work, or while at work but performing duties that do not present inherent dangers specific to the occupations covered by the State Patrol Retirement Plan.

Section 8 adds a “duty disability” definition for the State Patrol Retirement, defined as a physical or psychological condition expected to last at least one year which prevents a member from performing the normal duties of the employment position, and which results from a disease or injury arising from activities while at work and performing duties that present inherent dangers specific to the occupations covered by the MSRS State Patrol Plan.

Section 9 adds a “normal duties” definition for the State Patrol Retirement, defined as specific tasks designated in the job description and performed on a frequent basis.

Section 10 adds a “less frequent duties” definition for the State Patrol Retirement, defined as tasks designated in the job description and performed occasionally or when assigned.

Section 11 revises the State Patrol Retirement Plan disabilitant optional annuity election provision (Section 352B.10, Subdivision 5) to provide an optional annuity election at age 55 or the five-year anniversary of the effective date of the disability, whichever is later, rather than at age 65 or the five-year anniversary of the effective date of the disability, whichever is later.

Section 12 revises the State Patrol Retirement Plan disabilitant retirement status at normal retirement age provision (Section 352B.105) to require termination of disability benefits and transfer to normal retirement status at age 55 or the five-year anniversary of the effective date of the disability, whichever is later, rather than at age 65 or the five-year anniversary of the effective date of the disability, whichever is later.

Section 13, Effective Date. Sections 1 to 12 are effective on the day following final enactment.

Discussion and Analysis

Delete-All Amendment H2124-1A revises MSRS-Correctional and State Patrol Retirement Plan law by adding definitions of regular disability, duty disability, normal duties, and less frequent duties and by revising the disabilitant transfer to normal retirement status at normal retirement age provisions.

The delete-all amendment raises the following policy issues:

1. Need for Change. The issue is whether there is sufficient need for the proposed changes. The Commission may wish to hear testimony from MSRS staff regarding why these changes are appropriate and should be made at this time. MSRS has been concerned about disability utilization in MSRS-Correctional for some time, but the current proposal will have little impact on controlling plan costs. This delete-all amendment is the first step in a multi-stage proposal to be requested in future years. Perhaps it would be better to delay action on at least some parts of the current proposal until next year.
2. Legislative Intent Problem due to Non-Operative Definitions/Conflict with Minnesota Statutes, Section 645.24. The Commission may wish to hear testimony from MSRS staff regarding why the various proposed definitions should be enacted. Presumably, MSRS intends that they be not operative at this time. None of the new definitions (regular disability, duty disability, normal duties, and less frequent duties) are currently used in the plan’s disability benefit provisions, and MSRS is not requesting that the actual disability benefit provisions be revised at this time to use the proposed definitions. The Commission may choose to not recommend inoperative provisions for enactment. The courts and other parties are likely to assume that these definitions must have some current purpose within MSRS statutes. Minnesota Statutes, Section 645.17, Presumptions in Ascertainning Legislative Intent, states that when the courts try to determine legislative intent, the courts may be guided by the presumptions that (1) the Legislature does not intend a result that is absurd, impossible to execute, or unreasonable, and (2) that the Legislature intends the entire statute is to be effective. If

