



H.F. 3223

(Mahoney)

S.F. 3054

(Tomassoni)

H.F. 1331

(Murphy, M., by request)

S.F. 920

(Betzold, by request)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-General and MSRS-Unclassified
Relevant Provisions of Law: Minnesota Statutes, Chapter 352D
General Nature of Proposal: Revising coverage options for certain legislators, elected state officials, and judges; permit election of MSRS-General coverage
Date of Summary: March 20, 2008

Specific Proposed Changes

- Revises the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) plan coverage provision to allow legislators, judges, the governor, lieutenant governor, secretary of state, state auditor, and attorney general, within their first year of service, to choose between the MSRS-Unclassified Plan defined contribution plan and the MSRS General State Employees Retirement Plan (MSRS-General) defined benefit plan, rather than being restricted to the Unclassified Program; and
- Revises the transfer to MSRS-General provision to permit these same groups, if they initially select MSRS-Unclassified Plan coverage, to switch to MSRS-General after providing ten years of service.

Policy Issues Raised by the Proposed Legislation

1. Reversal of reforms.
2. Public perception.
3. Implications for coverage by local government elected officials in the Public Employees Defined Contribution plan.
4. Judges issues: different justification, allowing judges to enter another defined benefit plan, funding/contribution issue, support for proposal.
5. Position of executive branch.
6. Adverse impact on MSRS-General.
7. Plan actuarial condition.

Potential Amendments

- H3223-1A adds effective dates to the bill, making the sections effective on July 1, 2008.
- H3223-2A revises the bill so that the treatment of judges is unchanged from current law.
- H3223-3A revises the bill so that the treatment proposed for judges is workable. The election under Section 1 of the bill by a judge would occur within one year of exceeding the 24-year service credit limit in the Judges Plan, and the election under Section 2 of the bill could be made ten years after exceeding that limit. If the judge elects MSRS-General coverage, the judge must pay the sum of the required employee and employer contributions for that plan.
- H3223-4A removes constitutional officers from the bill, leaving their treatment unchanged from current law.
- H3223-5A can be used if judges and constitutional officers remain in the bill, and allows these groups to elect MSRS-General coverage within the first year, but would remove for these groups authority to have a "ten-year" election.
- H3223-6A permits those who did not have a first-year choice of coverage (judges, constitutional officers, and legislators added to the MSRS-Unclassified Plan) to elect MSRS-General coverage through a one-time election.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni): MSRS-General and MSRS-Unclassified; Revising Plan Coverage Options for Certain Legislators, Elected State Officials, and Judges; Permitting Election of MSRS-General Plan Coverage

H.F. 1331 (Murphy, M., by request); S.F. 920 (Betzold, by request): MSRS-General and MSRS-Unclassified; Revising Plan Coverage Options for Certain Legislators, Elected State Officials, and Judges; Permitting Election of MSRS-General Plan Coverage

DATE: March 19, 2008

Summary

H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni) revises the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) plan coverage provision (Minnesota Statutes, Section 352D.02, Subdivision 1) to allow legislators, judges, the governor, lieutenant governor, secretary of state, state auditor, and attorney general, within their first year of service, to choose between the MSRS-Unclassified Plan defined contribution plan and the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) defined benefit plan, rather than being restricted to the MSRS-Unclassified Plan; and revises the transfer-to-MSRS-General plan provision (Minnesota Statutes, Section 352D.02, Subdivision 3) to permit these same elected official groups, if they initially select MSRS-Unclassified Plan coverage, to switch to MSRS-General after providing ten years of service.

H.F. 1331 (Murphy, M., by request); S.F. 920 (Betzold, by request) are comparable bills introduced in last year's session. These needed to be redrafted as H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni) because one of the sections amended in the bills was revised in 2007.

Background Information

- Background on plan coverage for judges is found in **Attachment A**.
- Background on Legislators Plan coverage is found in **Attachment B**. All legislators first elected after June 30, 1997, are covered by the MSRS-Unclassified Plan, a defined contribution plan. Many pre-July 1, 1997, legislators also chose to transfer coverage from the Legislators Plan to MSRS-Unclassified plan.
- Information on the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) plan is found in **Attachment C**.
- Information on the Combined Service Annuity provision is found in **Attachment D**.

Discussion and Analysis

The existing law language (found on page 1.8 to 1.17 of the bill) allows employees other than judges and elected officials to choose between the MSRS-Unclassified Plan, a defined contribution plan, and MSRS-General, a defined benefit plan. Elected officials (legislators, judges for service in excess of 24 years, the governor, lieutenant governor, secretary of state, state auditor, and attorney general) do not have an option. They are to be covered by the MSRS-Unclassified Plan.

1. Treatment Of Employees Other Than Judges, Legislators, Elected State Officers. The existing law reflects the policy that non-elected employees should be permitted to decide for themselves what type of coverage is best. If an employee expects to be short-term, MSRS-Unclassified is clearly the best option because the assets in the individual's MSRS-Unclassified Plan account are fully portable. If

the individual terminates he or she retains the employee contributions, the employer contributions, and the investment earnings on the employee and employer contributions. In contrast, if the individual had chosen MSRS-General coverage and terminated after a few years, the individual may not have vested for any deferred annuity from the plan, and even if he or she did vest, the value of that benefit may be less than the value of a refund as permitted under that plan, which is the employee contributions plus six percent interest. Also, existing law allows non-elected employees in the Unclassified Plan to exercise a second election any time after providing ten years of covered service, and before one month after terminating service. They can transfer the MSRS-Unclassified Plan account value to MSRS-General, and when they retire they will receive an annuity based on the individual's high-five average salary, service credit, and accrual rate in MSRS-General rather than upon the account's value. Thus, if the individual does provide long service, and if the annuity value would be greater under MSRS-General than the value of the individual's MSRS-Unclassified Plan account, it is in the individual's financial interest to transfer plan coverage.

Both the first-year election of coverage and the ten-year transfer feature can negatively impact MSRS-General. Individuals who intend to stay and provide long service will elect MSRS-General coverage, while those who intend to leave early will not. Compared to other employees in MSRS-General, this lessens plan turnover which will put upward pressure on plan cost. The ten-year transfer provision also allows individuals to add liability on MSRS-General without providing sufficient assets to fully cover that liability, by choosing that transfer when the value of an MSRS-General benefit exceeds that of their Unclassified Plan account value. Information on liabilities placed on MSRS-General and the normal cost of MSRS-Unclassified members compared to MSRS-General members appears in Attachment C. In the past, MSRS has proposed ending the ten-year transfer provision, at least for new hires, but that has not been passed by the Legislature.

2. Treatment Of Judges, Legislators, Elected State Officers. Existing law does not give post-June 30, 1997, legislators, judges for service in excess of 24 years, the governor, lieutenant governor, the secretary of state, the state auditor, and the attorney general any first year election. These individuals are covered by the MSRS-Unclassified Plan. These reflect a decision by past Legislatures that the appropriate coverage for these groups is defined contribution plan coverage.
 - a. Legislators. The Legislators Plan, which was closed to new entrants in 1997, is a defined benefit plan which was a basic plan, meaning that individuals did not contribute to Social Security based on that employment, and therefore did not accrue old age Social Security benefits. In part to permit Social Security coverage, all new legislators first elected after June 30, 1997, and any legislators first elected earlier who wanted to transfer coverage, were placed in the MSRS-Unclassified Plan, which is coordinated with Social Security. That legislative decision may also reflect a conclusion that defined contribution plan coverage is more appropriate for legislators. Most legislators have employment other than the legislature, and most do not serve as legislators for more than a few sessions. Given the incidental nature of this employment and the short service, defined contribution plan coverage makes sense. The Legislature may also have been reacting to windfalls that could occur when coverage was provided by the defined benefit Legislators Plan, which is a plan included under the Combined Service Annuity provision (Minnesota Statutes, Section 356.30). If, after providing legislative service, an individual becomes employed in the judiciary or as a commissioner or in some other highly paid position, the high-five average salary established in the high-paying position can be applied to compute the legislative annuity, rather than basing the Legislators Plan annuity on the low pay the individual received as a legislator. This can result in an annuity from the Legislators Plan which is much larger than expected, placing an unexpectedly large liability on taxpayers.
 - b. Elected State Officers. For elected state officers (governor, lieutenant governor, the secretary of state, the state auditor, and the attorney general), the issues are similar. Many of these individuals provide short service, and high pay in some of these positions can create problems if coverage was provided by a defined benefit plan included in the Combined Service Annuity provision. There used to be an Elected State Officers Plan, which was a defined benefit plan very similar to the Legislators Plan. This plan was closed to new entrants in 1997, the same year in which similar action was taken in the Legislators Plan. The Elected State Officers Plan, while it existed, was included in the Combined Service Annuity provision.

- c. Judges. Judges are covered by the Judges Retirement Plan, a defined benefit plan specified in Minnesota Statutes, Chapter 490, for the first 24 years of service. It is assumed that an individual will be appointed as a judge at an age which is much later than a typical new entrant in other plans. To allow a reasonable benefit to accrue, the Judges Plan uses a very high accrual rate, 3.2 percent per year for service after June 30, 1980. This created a problem when the individual did not fit the expected norm. When individuals are appointed at a relatively young age and provide long service, this high accrual rate could create a benefit deemed to be excessive. To address this concern, statute placed a cap on the pension as a percentage of salary (70 percent); then in 2000 this was replaced with a service credit cap wherein a judge could accrue no more than 24 years of service credit. If the individual continued to serve after 24 years, an account is established in the MSRS-Unclassified Plan funded by the employee contribution that would otherwise be paid to the Judges fund.

Given the likely reasons why legislators, elected state officers, and judges for service in excess of 24 years were placed in MSRS-Unclassified, it might be assumed that these groups would not be permitted to transfer to MSRS-General coverage after ten years, but one can debate whether there is a prohibition in law. The language is less than clear. MSRS interprets the existing law language to prohibit individuals in these groups from transferring coverage. MSRS argues that Minnesota Statutes, Section 352.D.02, Subdivision 1, (the existing law version Section 1 of the bill) divides the broad coverage group into two subgroups: (1) a group referred to as “employees” or “enumerated employees,” and (2) a second group referred to as “referenced persons.” The “referenced persons” group is composed of legislators, the elected state officers, and judges with more than 24 years of service. Under Subdivision 1, it is “employees” or “enumerated employees” who have the right to choose between MSRS-General and MSRS-Unclassified coverage, while “referenced persons” are restricted to MSRS-Unclassified.

Regarding the ten-year transfer provision, under the existing law language of Minnesota Statutes, Section 352D.02, Subdivision 3 (the existing law version of Section 2 of the bill), an individual who has a transfer right (page 3.17 to 3.19) is “An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service....” MSRS contends that if the Legislature intended that legislators, elected state officers, and judges with more than 24 years of service could transfer after ten years of service, the Legislature would have stated, “An employee or referenced person” rather than just “An employee” on page 3.17. One could also argue that if a transfer right for judges was intended, then this subdivision would have been revised in 2000 when judges with more than 24 years of service were placed in the MSRS-Unclassified Plan chapter. It is not clear how to apply this ten-year requirement when a judge will already have 24 years of service before this chapter of law is relevant to that judge’s situation.

H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni) is an effort to revise law to permit legislators, elected state officers, and judges with more than 24 years of service to have a choice in the first year between MSRS-Unclassified coverage and MSRS-General coverage; and to have a right to transfer from MSRS-Unclassified coverage to MSRS-General after ten or more years of service.

Pension Policy Issues

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

1. Reversal of Reforms. The policy issue is that the proposal seems to reverse actions by prior Legislatures to reform the pension systems, by eliminating opportunities for windfalls which can occur when elected officials are covered by defined benefit plans included in the Combined Service Annuity provision. The Commission may wish to establish, through testimony, whether there is sufficient merit or equity concerns to outweigh drawbacks of again permitting defined benefit coverage.
2. Public Perception. The Legislative Commission on Pensions and Retirement and the Legislature may wish to consider that the general public may react negatively to any attempt to revise pension coverage for legislators and other elected officials. The current proposal is, in part, a natural response to recent market events which have caused a large decrease in the value of any MSRS-Unclassified Plan account invested in whole or part in stocks. The Commission may wish to consider that most private sector pension plans are defined contribution plans. The bill may be viewed as an effort by legislators

to shield themselves from the impact of the very bad recent markets, while the general public has no similar protection.

3. Implications for Coverage by Local Government Elected Officials in the PEDC. The issue is that any action to again permit defined benefit plan coverage for legislators and constitutional officers will lead to requests for similar treatment for local government officials. In recent years the Commission and the Legislature have revised Public Employees Retirement Association (PERA) law to prohibit coverage of local elected officials by PERA's general employee defined benefit plan, PERA-General. The only coverage permitted for newly elected or appointed local government officials is by PERA's defined contribution plan, the Public Employees Defined Contribution (PEDC) plan.
4. Judges Issues. There are a few issues specific to judges, as follows:
 - a. Different justification. Judges were added to the MSRS-Unclassified Plan coverage provisions for reasons quite different than those applicable to legislators and elected state officers, and the proposed framework does not work for that group. Section 2 of the bill would authorize all groups to switch to defined benefit coverage after ten years, but it is unclear how to apply that to judges, since a judge would have 24 years of service before being referred to MSRS-Unclassified for further coverage. Similarly, Section 1 of the bill with its first-year election needs modification to clarify how it is to apply to judges.
 - b. Allowing judges to enter another defined benefit plan. Judges are referred to MSRS-Unclassified because they have exceeded the years of service deemed reasonable under the Judges Plan, given the high accrual rate of that defined benefit plan. It is not clear why they should be permitted to enter another defined benefit plan, MSRS-General, rather than MSRS-Unclassified. If they are to be permitted defined benefit plan coverage, that could be done by leaving them in the Judges Plan but with a reduced accrual rate for service in excess of 24 years.
 - c. Funding/contribution issue. When a judge is referred to MSRS-Unclassified for further coverage, the employee contribution, eight percent of pay that would otherwise be made to the Judges Plan, is instead made to the individual's account in MSRS-Unclassified. However, the employer contribution, 20.5 percent of pay, continues to be made to the Judges Plan fund. (These requirements are specified in Minnesota Statutes, Section 490.123, Subdivisions 1a and 1b.) If the judge is instead permitted to enter MSRS-General, some additional drafting is necessary because it is not clear how MSRS-General will receive the full employee and employer contribution required by law for that plan. The eight percent of pay contribution currently made by a judge in MSRS-Unclassified is considerably more than the employee contribution required under MSRS-General, but less than the sum of the required employee/employer contributions, which currently total 8.5 percent of pay, but which will escalate in 2010 to ten percent of pay. The Commission and Legislature could require the judge to pay the full required MSRS-General amount, which would be larger than the eight percent contribution currently made, or the Commission and Legislature could require some of the current 20.5 percent of pay the employer is currently contributing to the Judges Plan to instead be paid to MSRS-General to cover the required MSRS-General employer contribution. That, however, would harm the Judges Plan fund.
 - d. Support for proposal. The issue is whether this proposal, as it applies to judges, is supported by the judicial branch and by individual judges.
5. Position of Executive Branch. Since this bill impacts the elected state officers, the issue is whether the executive branch and these elected officials support this proposal.
6. Adverse Impact on MSRS-General. The issue is the adverse impact on MSRS-General. As noted above, the first-year and ten-year elections adversely impact MSRS-General. This bill expands the group that can make those elections, which will add to that adverse impact.

7. Plan Actuarial Condition. The issue is the actuarial condition of MSRS-General and the Judges Plan. MSRS-General has unfunded liability and a 2.11 percent of pay contribution deficiency. Although total contributions are scheduled to be increased to ten percent of pay, that may still leave a deficiency. The elections proposed by the bill will have a further negative effect on the fund.

The Judges Plan is 75 percent funded and has a 3.54 percent of pay contribution deficiency. If the bill was amended to require some of the employer contributions to this plan to be redirected to MSRS-General, this would worsen the condition of the Judges Plan.

MSRS-GENERAL			JUDGES PLAN		
	2007			2007	
<u>Membership</u>			<u>Membership</u>		
Active Members		48,379	Active Members		308
Service Retirees		20,880	Service Retirees		171
Disabilitants		1,547	Disabilitants		9
Survivors		2,919	Survivors		83
Deferred Retirees		14,751	Deferred Retirees		18
Nonvested Former Members		<u>7,007</u>	Nonvested Former Members		<u>0</u>
Total Membership		95,483	Total Membership		589
<u>Funded Status</u>			<u>Funded Status</u>		
Accrued Liability		\$9,627,304,704	Accrued Liability		\$214,296,973
Current Assets		<u>\$9,171,066,094</u>	Current Assets		<u>\$161,749,693</u>
Unfunded Accrued Liability		\$456,238,610	Unfunded Accrued Liability		\$52,547,280
Funding Ratio	95.26%		Funding Ratio	75.48%	
<u>Financing Requirements</u>			<u>Financing Requirements</u>		
Covered Payroll		\$2,241,738,286	Covered Payroll		\$37,974,474
Benefits Payable		\$392,058,387	Benefits Payable		\$14,516,203
Normal Cost	8.40%	\$188,716,922	Normal Cost	18.03%	\$6,848,676
Administrative Expenses	<u>0.23%</u>	<u>\$5,155,998</u>	Administrative Expenses	<u>0.14%</u>	<u>\$53,164</u>
Normal Cost & Expense	8.63%	\$193,872,920	Normal Cost & Expense	18.17%	\$6,901,840
Normal Cost & Expense	8.63%	\$193,872,920	Normal Cost & Expense	18.17%	\$6,901,840
Amortization	<u>1.98%</u>	<u>\$44,386,418</u>	Amortization	<u>13.44%</u>	<u>\$5,103,780</u>
Total Requirements	10.61%	\$238,259,338	Total Requirements	31.61%	\$12,005,620
Employee Contributions	4.25%	\$95,273,877	Employee Contributions	8.00%	\$2,874,882
Employer Contributions	4.25%	\$95,273,877	Employer Contributions	20.50%	\$7,784,783
Employer Add'l Cont.	0.00%	\$0	Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0	Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0	Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	8.50%	\$190,547,754	Total Contributions	28.07%	\$10,659,665
Total Requirements	10.61%	\$238,259,338	Total Requirements	31.61%	\$12,005,620
Total Contributions	<u>8.50%</u>	<u>\$190,547,754</u>	Total Contributions	<u>28.07%</u>	<u>\$10,659,665</u>
Deficiency (Surplus)	2.11%	\$47,711,584	Deficiency (Surplus)	3.54%	\$1,345,955

8. Request for Elections by Current MSRS-Unclassified Plan Members. The issue is the likelihood that existing legislators, who did not have an option to elect MSRS-General rather than MSRS-Unclassified coverage during their first year, will want a special election to make that coverage change. The bill as drafted does not include that election.

9. Requests by Members of the Legislators Plan to Shift Coverage. The issue is whether members of the Legislators Plan will want an election to shift coverage to MSRS-General if this bill were to pass. Individuals who remain in the basic Legislators Plan may want another opportunity to get Social Security coverage. Individuals who are members of the Coordinated Legislators Plan, created in 2002, were able to retain coverage by the Legislators Plan provided the legislator agreed to pay both the employee and employer Social Security contributions. MSRS-General is also a coordinated plan, but with lesser accrual rates than that used in the Legislators Plan. There may be legislators interested in shifting to MSRS-General if the requirements for paying the Social Security employer contribution on behalf of legislators were revisited.

Potential Amendments for Commission Consideration

- **Amendment H3223-1A** adds effective dates to the bill, making the sections effective on July 1, 2008.
- **Amendment H3223-2A** revises the bill so that the treatment of judges is unchanged from current law.
- **Amendment H3223-3A** revises the bill so that the treatment proposed for judges is workable. The election under Section 1 of the bill by a judge would occur within one year of exceeding the 24-year service credit limit in the Judges Plan, and the election under Section 2 of the bill could be made ten years after exceeding that limit. If the judge elects MSRS-General coverage, the judge must pay the sum of the required employee and employer contributions for that plan.
- **Amendment H3223-4A** removes constitutional officers from the bill, leaving their treatment unchanged from current law.
- **Amendment H3223-5A**, which can be used if judges and constitutional officers remain in the bill, allows these groups to elect MSRS-General coverage within the first year, but would remove for these groups authority to have a “ten-year” election.
- **Amendment H3223-6A** permits those who did not have a first-year choice of coverage (judges, constitutional officers, and legislators added to the MSRS-Unclassified Plan) to elect MSRS-General coverage through a one-time election. As drafted, this amendment would be appropriate for all individuals who currently have Social Security coverage.

Attachment A

Background and History of Coverage for Judges

a. In General. There have been six retirement plans for Minnesota judges and their survivors, the five old law plans and the current Judges Retirement Plan (Uniform Retirement and Survivors' Annuities for Judges Plan).

1. Old Law Judicial Retirement Plans. The five old law plans are:

- the Supreme Court Justices Retirement Plan, established by legislative enactment in 1943, which provided retirement annuity and disability benefit coverage for justices of the Minnesota Supreme Court who entered service prior to January 1, 1974;
- the District Court Judges Retirement Plan, established in 1925 by legislative enactment, which provided retirement annuity and disability benefit coverage for the judges of the various district courts in Minnesota who entered service as a judge prior to January 1, 1974;
- the Probate and County Court Judges Retirement Plan, established by legislative enactment in 1931, which provided retirement annuity and disability benefit coverage for the judges of the various probate courts or subsequent county courts who entered into service prior to January 1, 1974;
- the Supreme Court Justices and District Court Judges Survivor Benefit Plan, established in 1959, which provided survivor benefit coverage to the surviving spouses of deceased active or retired Supreme Court justices or District Court judges; and
- the Probate and County Court Judges Survivor Benefit Plan, established in 1967, which provided survivor benefit coverage to surviving spouses of deceased active or retired probate or county court judges. The various justices and judges obtaining the survivor coverage were required to make a member contribution to fund the coverage, which was intended to be the sole financing of the coverage and was to be periodically revised based on the financial condition of the survivor funds.

2. Uniform Retirement and Survivors' Annuities for Judges Plan. The Uniform Judicial Retirement Plan, Minnesota Statutes, Sections 490.121 to 490.133, was enacted in 1973. The Uniform Judicial Retirement Plan is the successor to the several prior judicial retirement plans.

In 1973, at the request of the Judicial Compensation Committee of the Minnesota State Bar Association, and in conjunction with the Committee on Retirement of the District Judges Association and the County Judges Association, the Legislature considered and enacted a uniform judicial retirement plan. The plan standardized benefits for the judges in the various levels of courts, allowed existing judges to retain their prior coverage if they so desired and extended Social Security coverage to existing judges on an individual election (referendum) basis and to newly appointed or elected judges on a mandatory basis. The uniform judicial retirement plan was apparently intended to provide better portability for individuals with varied judicial service, provide earlier vesting based on service credit only, improve deceased active member survivor benefit coverage, establish optional annuity forms for improved retired member survivor benefit flexibility, establish a pension fund for the plan with regular financing, and provide regular post retirement adjustments.

Since 1973, a number of modifications in the uniform judicial retirement plan have occurred.

- In 1975, in addition to the settlement of the Sylvestre v State, 314 NW2d 658 (1973), lawsuit (involving old law district and supreme court judges post-retirement escalation) issue, a proportionate annuity based on accrued service credit at the mandatory retirement age was authorized by the Legislature.
- In 1978, the Legislature authorized fractional (portion of a year) service credit and authorized a refund to the survivor or estate of a deceased judge who is not eligible for survivor benefit coverage.
- In 1980, the retirement annuity benefit accrual rate was increased by legislation from 2.5 percent to 3.0 percent for each year of service rendered after June 30, 1980, and the member contribution rate was increased by one half of one percent of salary, with a 7.0 percent aggregate (inclusive of the Social Security employee contribution) contribution.

- The 1981 Legislature approved an extension of active member survivor coverage to deferred annuitants during the period of that deferral and eliminated the surviving spouse or estate death refund.
- In 1982, with the creation of the Court of Appeals, judicial service with that court was included in coverage by the Judges Retirement Plan.
- In 1983, the Legislature provided that the initial disability benefit coverage, which is a two-year continuation of salary, may not exceed the mandatory retirement age.
- In 1984, the reduction factor used to calculate a reduced early retirement annuity was reset from 6.67 percent per year under age 65 to six percent per year under age 65.
- In 1988, the service credit requirement for vesting for a normal or early retirement was reduced from ten years to five years, an unsubsidized bounce-back joint-and-survivor optional retirement annuity form was authorized, the Social Security benefit offset from the Coordinated Program retirement annuity was reduced from 75 percent of the primary benefit amount to 50 percent, and the Coordinated Program member contribution rate was increased by 0.75 percent of salary.
- In 1989, the Combined Service Annuity portability mechanism was extended to the Uniform Judges Retirement Plan, and former judges who return to judicial service were authorized to repay any prior refunds of member contributions and interest to reestablish service and salary credit.
- In 1991, the terminal employer funding procedure for the fund was replaced with a regular concurrent employer contribution procedure, with an employer rate of 22 percent of salary, the Coordinated Program member contribution was revised to four percent of salary, and the continuation of full salary initial judicial disability benefit was reduced from two years to one year. Prior to 1991, the employer contributions to the fund occurred only when benefits became payable--when the fund was required to transfer the full actuarial reserves to the State Board of Investment Post Fund.
- In 1992, the 30-day time limit on electing an optional retirement annuity form was eliminated, the Social Security benefit offset from the Coordinated Program retirement annuity was repealed, the Coordinated Program member contribution was increased from four percent to 6.27 percent of pay, judges covered by the Basic Program were provided a second chance opportunity to elect prospective Social Security coverage, and the interest rate payable on refund repayments was increased from six percent to 8.5 percent.
- In 1993, it was clarified that disabled judges earn a year of service credit for the year of full salary continuation, with the applicable salary rate credited in determining a final average salary for benefit computation, and with member contributions payable on that salary amount.
- In 1996, with respect to judges who die without a survivor benefit consequently payable, a death refund payable to the applicable estate was authorized.
- In 1997, the annual benefit accrual rates were increased to 2.7 percent from 2.5 percent for pre-7/1/1980 service, and to 3.2 percent from 3.0 percent for post-6/30/1980 service while future annual post-retirement adjustments were reduced by one percent.
- In 1998, the member contribution rate was increased from 6.27 percent to 8.00 percent, the employer contribution rate was reduced from 22 percent to 20.5 percent, and the salaries of judges were increased by 1.5 percent.
- In 2000, the previous percentage benefit maximum (70 percent of annual salary in the year immediately preceding retirement) was converted to a service credit maximum (24 years of service); retirement coverage for judges for years served beyond the service credit maximum was shifted to coverage by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), with an 8.0 percent employee contribution to MSRS-Unclassified by the judge and with no employer contribution; and the maximum benefit accrual rate for judges computing retirement annuities under the Combined Service Annuity portability provision was increased from 2.5 percent per year to 3.2 percent per year.
- In 2004, the early reduced benefit retirement age was down-set from age 62 to age 60 and the basis for interest on refunds was modified from interest on quarterly balances to daily interest.

Attachment B

Legislators Plan

Retirement coverage for legislators is provided by either the Legislators Retirement Plan or the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified). Legislators who were first elected to the Legislature before July 1, 1997, were covered by the Legislators Retirement Plan. That plan is governed by Minnesota Statutes, Chapter 3A, and is a defined benefit plan. Many pre-July 1, 1997, legislators chose to switch coverage to MSRS-Unclassified through an irrevocable election. The Legislators Plan was a basic plan, meaning that individuals did not pay into the Social Security system due to the Legislative employment and generated no credit toward the Social Security Old Age Program. Those who wanted Social Security coverage were permitted to elect MSRS-Unclassified Plan coverage, which is coordinated with Social Security. In 2002 another election was held for individuals who had earlier chosen to stay in the Legislators Plan. In this second election, the individuals could choose to have Social Security coverage while remaining in the Legislators Plan, providing they agreed to cover both the employee and employer Social Security contribution requirements.

Legislators first elected to the Legislature after June 30, 1997 (and those pre-July 1, 1997, legislators who chose to transfer coverage), are covered by MSRS-Unclassified under Minnesota Statutes, Sections 3A.07, Paragraph (b), and 352D.02, Subdivision 1, Paragraph (b). MSRS-Unclassified is a defined contribution plan governed by Minnesota Statutes, Chapter 352D.

The Legislators Retirement Plan was enacted in 1965. It is the successor to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) as the retirement coverage for members of the Legislature. At that time, PERA-General was a basic plan and no contributions were made into the federal Social Security program for the covered service. PERA-General in 1965 used a career average salary and had back-loaded accrual rates, heavily favoring long-time employees.

Several modifications in the Legislators Plan have occurred:

- In 1965, when the Legislature created a separate Legislative Plan, current members and new members with prior PERA-General coverage had an option to retain PERA-General coverage. The motivation for establishing a separate Legislators Plan probably came from a growing recognition that the back-loaded PERA-General plan was not well suited to provide legislative retirement coverage, since the typical legislator would not be providing many decades of service. Prior to 1977, the Legislators Plan provided a retirement benefit of 40 percent of the average monthly salary received during the final term of office for the first eight years of service, and an additional 2.5 percent per year for each year beyond eight.
- Beginning with the 1979 session, the maximum benefit accrual rate for any new legislative service was set at 2.5 percent. This lower accrual rate was adopted in recognition of the changing nature of legislative work. Until the early 1970s, legislative salaries were minimal. In order to provide any meaningful retirement benefit, a high benefit accrual rate was used. As legislative salaries increased in recognition that legislative work was becoming more like a full-time occupation, the Legislature recognized that it needed to revise the benefit accrual rates downward. The legislative salary for pension purposes was redefined to exclude an additional compensation for leadership positions. A 20-year cap on creditable service was also imposed. The Legislators Plan was revised in 1978 and 1979 to use the high-five average salary rather than the average salary in the final term in office and the normal retirement age was increased from age 60 to age 62, with age 60 becoming the earliest age for retirement with a reduced annuity. Vesting for a retirement annuity was reduced from eight years to six years. In 1989, the definition of salary was changed to include regular and special session per diem payments, the deferred annuity augmentation rates were revised to three percent per year up to the year in which the ex-legislator becomes age 55, and five percent per year thereafter, the reduction factors for early retirement were revised to require a more substantial penalty, and the 20-year cap on service credit was removed. Members who were no longer accruing service credit because their service exceeded 20 years were authorized to again begin accruing service credit. The 1989 removal of the Legislators Plan service credit cap was made retroactive in 1992. Long-term legislators, including those in deferred status with uncredited service prior to June 2, 1989, were authorized to purchase service credit for the uncredited period and the affected legislators were required to contribute nine percent of salary received during the uncredited period plus six percent interest from

the midpoint of the period of uncredited service to the date of payment. Payment had to be received prior to retirement or by January 1, 1994, whichever was earlier.

- In 1997, the annual benefit accrual rates for the Legislators Retirement Plan were revised (from the 5.0 percent pre-1978 service accrual rate and 2.5 percent post-1978 service accrual rate) to that annual individual benefit accrual rate that has the same actuarial value following implementation of the one percent annual post-retirement adjustment benefit reduction imposed by the same legislation.
- In 2002, legislators who had chosen to remain in the Legislators Plan were given an opportunity to elect Social Security coverage while remaining in the Legislators Plan, providing that they agreed to coverage the Social Security employee and employer contribution requirement.

Attachment C

Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified)

The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) was established in 1971 (Laws 1971, Chapter 604), and is governed by Minnesota Statutes, Chapter 352D.

- a. Establishment and Membership. MSRS-Unclassified is a defined contribution plan established by Minnesota Statutes, Chapter 352D. It covers a number of state employees or officers in the unclassified service of the state on a mandatory or optional basis.

The following positions are members of the program on a mandatory basis:

1. the governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general;
2. legislators first elected after June 30, 1997;
3. judges, for service in excess of 24 years (Minnesota Statutes, Section 490.121, Subdivision 22).

The following group was permitted to choose between the Legislators Plan and the MSRS-Unclassified Plan:

1. legislators first elected before July 1, 1997.

The remaining positions have the option to elect to be members of the program rather than being a member of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General):

1. an employee of the State Board of Investment;
2. the head of a department, division, or agency created by statute in the unclassified service;
3. a permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
4. the regional administrator or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council;
5. the executive director, associate executive director of the Higher Education Services Office in the unclassified service;
6. the clerk of the appellate court;
7. the chief executive officers of correctional facilities, hospitals, and nursing homes;
8. an employee of the state ceremonial house;
9. an employee of the Minnesota Educational Computing Corporation;
10. an employee of the World Trade Center board;
11. an employee of the State Lottery board;
12. an employee of Minnesota Technology Incorporated;
13. Minnesota State Colleges and Universities System (MnSCU) employees employed by the former state university system or community college system before May 1, 1995, or other MnSCU unclassified administrators in service before July 1, 1995, who elected MSRS-Unclassified coverage.

- b. Plan Governance and Administration. An 11-member board, the MSRS Board of Directors is chaired by a board member and performs the policy-making function of the MSRS-Unclassified. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration of the MSRS-Unclassified Plan. The MSRS staff executes the recordkeeping and the communication functions of the plan. The State Board of Investment and its staff perform the investment function of the plan.

- c. Contribution Rates and Collection. The contribution rate to MSRS-Unclassified for an employee is four percent of gross salary, except for the long-service judges covered by the program, where the member contribution is eight percent of salary. In addition, the employer must contribute six percent of the employee gross salary, except for the long-service judges covered by the program, where there is no employer contribution to MSRS-Unclassified. Both contributions, which are not taxable, are collected at payday every two weeks and credited to the employee's account each

month. The contributions generally are collected electronically by MSRS. An 8.5 percent fee applies for late collection or payment.

- d. Administrative Expenses. All administrative and investment expenses are borne by participants, who are charged 0.08 percent of total program assets a year for the plan administrative expenses, compared to the 0.22 percent of covered pay for MSRS-General.
- e. Plan Investments. The plan investments are directed individually by each participant, who makes the actual choice in the composition of investment securities in the person's own account. Under Minnesota Statutes, Section 11A.17, the investments are shares in one or a combination of the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account and the common stock index account. The contributions are invested within the month they are received. Actual investments are done through outside vendors who enter into competitively bid contracts with the State Board of Investment for five years. The contracts are reviewed periodically by the State Board of Investment.
- f. Plan Communication, New Member Processing, and Benefit Counseling. MSRS provides information to plan members through newsletters, a quarterly benefit statement, a plan handbook, and financial reports each year. MSRS also presents to every new member a welcome letter, forms for membership, and the plan handbook. Finally, for an employee approaching retirement, MSRS provides an estimate of the person's benefit, the tax impact on the benefit if the participant either opts for a lump sum payment or an annuity. An annuity is purchased from the Minnesota Post Retirement Investment Fund, governed by Minnesota Statutes, Section 11A.18, with the accumulated balance of the participant's account. An annuity may be purchased at age 55 or older.
- g. Option to Switch to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in MSRS-Unclassified with at least ten years of state service is permitted up to one month following termination of employment to elect to transfer coverage to MSRS-General, a defined benefit plan governed by Minnesota Statutes, Chapter 352. The MSRS-General retirement annuity is 1.7 percent of a member's highest five successive years average salary per year of covered service, payable in full at age 65 and reduced actuarially if the annuity commenced before age 65, with the earliest reduced benefit retirement age of 55.
- h. Actuarial Impact. The option to transfer coverage from MSRS-Unclassified to defined benefit plan coverage by MSRS-General has an actuarial cost for MSRS-General. The July 1, 2004, MSRS-General actuarial valuation calculated the actuarial liability for the active members of MSRS-Unclassified under the MSRS-Unclassified Plan asset value or the present value of the MSRS-General benefit, whichever is greater. As of July 1, 2007, the MSRS-General transfer provision creates a \$64.8 million unfunded actuarial accrued liability in MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants was 8.91 percent of covered pay, compared to the normal cost for MSRS-General active members of 8.4 percent of covered pay.

Attachment D

Combined Service Annuity

The Combined Service Annuity provision, Minnesota Statutes, Section 356.30, was enacted in 1975. This law provides portability between the Minnesota public pension plans included in the provision. Before 1975, if a person shifted between city employment, covered by the Public Employees Retirement Association General Employees Retirement Plan (PERA), and state employment, covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) or some other MSRS plan, the person would receive separate benefits from each pension plan calculated without reference to the other public employment. The PERA benefit would be those determined under the applicable laws at the time the individual left PERA covered employment. The MSRS-General benefit would be determined under laws in effect when the individual left MSRS-General covered employment. Both are high-five average salary defined benefit pension plans, but the salaries used to compute the benefits would be different, since one reflects recent salary while the other may be based on salary received years or even decades earlier.

With the Combined Service Annuity law, the benefit calculations for a person with multiple public pension plan coverage are very similar to those for a person who changed employment between employers covered by the same plan. To provide benefit treatment for the public employee who changed employment to another public employer covered by a different retirement system that is similar to that of a public employee who changes jobs all covered by the same retirement plan, the Combined Service Annuity law requires the benefit to be computed using a common high-five average salary, with the years used for determining the high-five average salary to include the most recent employment, the prior employment, or a combination of the two, whichever provides the highest average. The common high-five average salary is then used to compute the benefits from all plans to be included in the calculations. The accrual rates and other plan features used to compute the benefits are those in effect for each included plans on the date the individual terminated from the last plan. Under the Combined Service Annuity provision, the individual is advantaged by receiving benefits from all the plans based on the recent high-five average salary, and the individual receives any benefit improvements or other plan changes that occurred since the individual terminated from the prior plan or plans. If two plans are involved, the benefit is computed by the first plan using the years of service credit the individual had under that plan. The second plan would compute its benefit based on the years of service credit the individual had under the second plan. Thus, an individual with 15 years of service under one plan and five years of service under another would receive two benefit checks, one from each plan, but the total of the two benefit checks should be the same, or very close, to the single retirement check received each month by a comparable individual, in comparable employment, with 20 years of service credit within a single plan.

There are circumstances under which permitting use of a combined service annuity calculation can be questioned. For example, the Legislators Plan provided a very high accrual rate as a way to provide a retiring legislator with a meaningful benefit, given the low salary that was provided at the time. The accrual rate was 5.0 percent per year of pre-1978 service and 2.5 percent per year for post-1978 service. However, if an ex-legislator was appointed to a high-paying position in state government covered by a Combined Service Annuity plan, when the individual retired, the high-five average salary earned in the high-paying position can be applied to the years of service as a legislator. When that high salary is coupled with high accrual rates of the Legislators Plan, the resulting retirement benefit related to the legislative service can be considerably in excess of what would be paid if the salary as a legislator were used. The decision in 1997 to close the Legislators Plan to new entrants, covering all new legislators through MSRS-Unclassified, may have been in part a response to this issue.

A similar concern has been raised when a judge retires who had some prior service covered by another plan included under the Combined Service Annuity provision. Judges salaries are high compared to most public employees. Given the use of that high-five, the liability imposed on a plan which provided coverage earlier in that individual's career can be much higher than expected. The Combined Service Annuity plans are specified in Minnesota Statutes, Section 356.30, Subdivision 3. They include all MSRS plans (MSRS-General, MSRS-Correctional, the State Patrol Plan, the Legislators Plan, the Judges Plan, plus the MSRS-Unclassified Plan), all PERA plans except the Public Employees Defined Contribution Plan, the Teachers Retirement Association, and the first class city teacher plans.

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 3, after line 14, insert:

1.3 "EFFECTIVE DATE. This section is effective July 1, 2008."

1.4 Page 3, after line 35, insert:

1.5 "EFFECTIVE DATE. This section is effective July 1, 2008."

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 1, line 8, before "Employees" insert "Except as specified in paragraph (b),"

1.3 Page 1, line 23, after "22" insert ", and are not eligible for the choice of coverage
1.4 specified in paragraph (a)"

1.5 Page 3, line 17, after "employee" insert ", other than a judge as specified in
1.6 subdivision 1, paragraph (c), clause (15),"

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 1, after line 5, insert:

1.3 Section 1. Minnesota Statutes 2006, section 352.04, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 3a. Contribution by judges. A judge who is a member of the general
1.6 plan due to an election under section 352D.02, subdivision 1 or 3, shall contribute to
1.7 the plan an amount equal to the sum of the employee and employer contributions under
1.8 subdivisions 2 and 3.

1.9 Page 1, line 8, before "Employees" insert "Except as specified in paragraph (b),"

1.10 Page 1, line 21, strike "Persons" and insert "A judge" and strike "are participants
1.11 in the unclassified"

1.12 Page 1, line 22, strike "program under this chapter"

1.13 Page 1, line 23, after "22" insert ", is a participant in the unclassified program under
1.14 this chapter unless the judge exercises the option under paragraph (a) to elect coverage
1.15 by the general state employees retirement plan. Notwithstanding paragraph (a), for a
1.16 judge that choice shall be made within one year of exceeding the service credit limit in
1.17 section 490.121, subdivision 22"

1.18 Page 3, line 17, after "An" insert "enumerated" and after "employee" insert "
1.19 specified in subdivision 1, paragraph (c)"

1.20 Page 3, after line 35, insert:

1.21 (c) For a judge, an election under paragraph (a) may be made after acquiring credit
1.22 for ten years of allowable service after exceeding the service credit limit specified in
1.23 section 490.121, subdivision 22.

1.24 Renumber the sections in sequence and correct the internal references

1.25 Amend the title accordingly

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 1, line 8, before "Employees" insert "Except as specified in paragraph (d),"

1.3 Page 3, after line 14, insert:

1.4 (d) The choice of coverage under paragraph (a), and the election under subdivision
1.5 3, do not apply to individuals specified in paragraph (c), clause (1). Individuals specified
1.6 in that clause are participants in the unclassified program under this chapter.

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 3, line 17, after "employee" insert ", except an employee specified in
1.3 subdivision 1, clause (1), (5), or (15),"

1.1 moves to amend H.F. No. 3223; S.F. No. 3054, as follows:

1.2 Page 3, after line 35, insert:

1.3 "Sec. 3. ELECTION OF MINNESOTA STATE RETIREMENT SYSTEM
1.4 GENERAL COVERAGE.

1.5 (a) Any employee specified in Minnesota Statutes, section 352D.02, subdivision 1,
1.6 paragraph (c), clause (1), (5), or (15), who is a member of the unclassified plan before July
1.7 1, 2008, may elect to transfer coverage to the Minnesota State Retirement System general
1.8 plan through an election under Minnesota Statutes, section 352D.02, subdivision 3, except
1.9 that the requirement of at least ten years of allowable service is waived. An election under
1.10 this section shall be made before July 1, 2009, on forms provided by the executive director
1.11 of the Minnesota State Retirement System.

1.12 (b) This section expires on July 1, 2009."

1.13 Amend the title accordingly

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3223

February 19, 2008

Authored by Mahoney

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act
1.2 relating to retirement; amending certain coverage provisions; making certain
1.3 technical changes; amending Minnesota Statutes 2007 Supplement, section
1.4 352D.02, subdivisions 1, 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2007 Supplement, section 352D.02, subdivision 1,
1.7 is amended to read:

1.8 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), ~~clauses (2);~~
1.9 ~~(3), (4), (6) to (14), and (16) to (18);~~ if they are an elected official or in the unclassified
1.10 service of the state or Metropolitan Council and are eligible for coverage under the general
1.11 state employees retirement plan under chapter 352, are participants in the unclassified
1.12 program under this chapter unless the employee gives notice to the executive director of
1.13 the Minnesota State Retirement System within one year following the commencement
1.14 of employment in the unclassified service that the employee desires coverage under the
1.15 general state employees retirement plan. For the purposes of this chapter, an employee
1.16 who does not file notice with the executive director is deemed to have exercised the option
1.17 to participate in the unclassified program.

1.18 ~~(b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified~~
1.19 ~~program under this chapter unless the person was eligible to elect different coverage under~~
1.20 ~~section 3A.07 and elected retirement coverage by the applicable alternative retirement~~
1.21 ~~plan.~~ Persons referenced in paragraph (c), clause (15), are participants in the unclassified
1.22 program under this chapter for judicial employment in excess of the service credit limit in
1.23 section 490.121, subdivision 22.

1.24 (c) Enumerated employees ~~and referenced persons~~ are:

- 2.1 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
2.2 and the attorney general;
- 2.3 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
2.4 of State, State Auditor, Attorney General;
- 2.5 (3) an employee of the State Board of Investment;
- 2.6 (4) the head of a department, division, or agency created by statute in the unclassified
2.7 service, an acting department head subsequently appointed to the position, or an employee
2.8 enumerated in section 15A.0815 or 15A.083, subdivision 4;
- 2.9 (5) a member of the legislature;
- 2.10 (6) a full-time unclassified employee of the legislature or a commission or agency of
2.11 the legislature who is appointed without a limit on the duration of the employment or a
2.12 temporary legislative employee having shares in the supplemental retirement fund as a
2.13 result of former employment covered by this chapter, whether or not eligible for coverage
2.14 under the Minnesota State Retirement System;
- 2.15 (7) a person who is employed in a position established under section 43A.08,
2.16 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
2.17 a department or agency of the state, which is at the deputy or assistant head of department
2.18 or agency or director level;
- 2.19 (8) the regional administrator, or executive director of the Metropolitan Council,
2.20 general counsel, division directors, operations managers, and other positions as designated
2.21 by the council, all of which may not exceed 27 positions at the council and the chair;
- 2.22 (9) the executive director, associate executive director, and not to exceed nine
2.23 positions of the Minnesota Office of Higher Education in the unclassified service, as
2.24 designated by the Minnesota Office of Higher Education before January 1, 1992, or
2.25 subsequently redesignated with the approval of the board of directors of the Minnesota
2.26 State Retirement System, unless the person has elected coverage by the individual
2.27 retirement account plan under chapter 354B;
- 2.28 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
2.29 Constitution of the state of Minnesota, the state court administrator and judicial district
2.30 administrators;
- 2.31 (11) the chief executive officers of correctional facilities operated by the Department
2.32 of Corrections and of hospitals and nursing homes operated by the Department of Human
2.33 Services;
- 2.34 (12) an employee whose principal employment is at the state ceremonial house;
- 2.35 (13) an employee of the Agricultural Utilization Research Institute;

3.1 (14) an employee of the State Lottery who is covered by the managerial plan
3.2 established under section 43A.18, subdivision 3;

3.3 (15) a judge who has exceeded the service credit limit in section 490.121,
3.4 subdivision 22;

3.5 (16) an employee of Minnesota Technology Incorporated;

3.6 (17) a person employed by the Minnesota State Colleges and Universities as faculty
3.7 or in an eligible unclassified administrative position as defined in section 354B.20,
3.8 subdivision 6, who was employed by the former state university or the former community
3.9 college system before May 1, 1995, and elected unclassified program coverage prior to
3.10 May 1, 1995; and

3.11 (18) a person employed by the Minnesota State Colleges and Universities who
3.12 was employed in state service before July 1, 1995, who subsequently is employed in an
3.13 eligible unclassified administrative position as defined in section 354B.20, subdivision
3.14 6, and who elects coverage by the unclassified program.

3.15 Sec. 2. Minnesota Statutes 2007 Supplement, section 352D.02, subdivision 3, is
3.16 amended to read:

3.17 Subd. 3. **Transfer to general plan.** (a) An employee credited with ~~employee~~ shares
3.18 in the unclassified program, after acquiring credit for ten years of allowable service and
3.19 not later than one month following the termination of covered employment, may elect
3.20 to terminate participation in the unclassified program and be covered by the general
3.21 plan by filing a written election with the executive director. The executive director
3.22 shall then redeem the employee's total shares and shall credit to the employee's account
3.23 in the general plan the amount of contributions that would have been so credited had
3.24 the employee been covered by the general plan during the employee's entire covered
3.25 employment or elective state service. The balance of money so redeemed and not credited
3.26 to the employee's account shall be transferred to the general plan retirement fund, except
3.27 that (1) the employee contribution paid to the unclassified program must be compared
3.28 to (2) the employee contributions that would have been paid to the general plan for the
3.29 comparable period, if the individual had been covered by that plan. If clause (1) is
3.30 greater than clause (2), the difference must be refunded to the employee as provided in
3.31 section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the
3.32 employee within six months of electing general plan coverage or before the effective
3.33 date of the annuity, whichever is sooner.

3.34 (b) An election under paragraph (a) to transfer coverage to the general plan is
3.35 irrevocable during any period of covered employment.