



**H.F. 2265**  
(Lanning)

**S.F. 1890**  
(Rosen)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* MSRS Health Care Savings Plan  
*Relevant Provisions of Law:* Minnesota Statutes, Section 352.98  
*General Nature of Proposal:* Administrative revisions  
*Date of Summary:* February 16, 2012

**Specific Proposed Changes**

- Allows the use of plan assets following termination, and in other circumstances specified in the plan document, rather than following termination or during active employment.
- Clarifies the reimbursement for expenses so that any assets remaining after the death of the participant and the participant's spouse must be used solely by a living person or persons designated by the personal representative of the estate for reimbursement of health care-related expenses.
- Allows fees not needed to cover current costs to be used to cover fees in future years, rather than in just the following year.
- Revises spelling in an exemption from process subdivision.


**Policy Issues Raised by the Proposed Legislation**

1. Failure to comply with administrative legislation requirements.
2. Lack of adequate specification in the contribution provision.

**Potential Amendments**

H2265-1A states that the assets may be used for health-related expenses after termination from public employment, or during active employment as further specified in the plan document.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director   
RE: H.F. 2265 (Lanning); S.F. 1890 (Rosen): MSRS Health Care Savings Plan Administrative Provisions.  
DATE: February 16, 2012

Summary of H.F. 2265 (Lanning); S.F. 1890 (Rosen)

H.F. 2265 (Lanning); S.F. 1890 (Rosen) amends various subdivisions of the health care savings plan provision (Minnesota Statutes, Section 352.98) by:

- Allowing the use of plan assets following termination, and in other circumstances specified in the plan document, rather than following termination or during active employment;
- Clarifying the reimbursement for expenses so that any assets remaining after the death of the participant and the participant's spouse must be used solely by a living person or persons designated by the personal representative of the estate for reimbursement of health care-related expenses;
- Allowing fees not needed to cover current costs to be used to cover fees in future years, rather than in just the following year; and
- Revising spelling in an exemption from process subdivision.

Background Information

The Minnesota State Retirement System (MSRS) Health Care Savings Plan was enacted in 2001 (Laws 2001, 1st Spec. Sess. Ch. 10, Art. 7, Sec. 1). The plan is not limited to members of MSRS plans; all Minnesota public employees are authorized to participate. Contributions to the plan are determined through a personnel policy or collective bargaining agreement of a public employer. MSRS established one or more trusts (to be used to invest the assets created in the accounts and to maintain the accounts) as authorized under the Internal Revenue Code to be eligible for tax-free treatment, both when assets are placed in the plan and when assets are withdrawn, enabling covered employees to save for health care costs.

Discussion and Analysis

H.F. 2265 (Lanning); S.F. 1890 (Rosen) revises a few subdivisions within the Minnesota State Retirement System Health Care Savings Plan provision. The changes are of an administrative nature. The proposed changes do raise a few policy issues, as follows:

1. Failure to Comply with Administrative Legislation Requirements. The issue is the failure by MSRS to comply with submission date requirements for administrative legislation. Minnesota Statutes, Section 356B.05, Public Pension Administration Legislation, is a provision requested by the pension plan administrators in 1994, passed as Laws 1994, Chapter 528, Article 1, Section 13, and coded as Minnesota Statutes, Section 356.88. It was later placed in a different chapter in statutes and recodified as Minnesota Statutes, Section 356B.05. The provision requires that proposed administrative legislation, recommended by MSRS or any other Minnesota public pension administration, must be submitted to the Legislative Commission on Pensions and Retirement and other relevant House and Senate committees by October 1 if the proposal is to be acted upon during the coming legislative session. This proposal was not submitted until early January.
2. Lack of Adequate Specification in the Contribution Provision. The issue is the lack of specification regarding how plan assets may be used. MSRS is proposing language which permits plan asset use following termination and "in other circumstances specified in the plan document," rather than following termination or during active employment. The Commission may wish to hear from MSRS regarding the specific uses for plan assets permitted under the plan document and federal code or other governing documents. The Commission may then decide whether some revision of the proposed language is needed to at least give an indication in statute of circumstances where these assets may be used.

**Amendment H2265-1A** would revise the language to state that the assets may be used for health-related expenses after termination from public employment or during active employment as further specified in the plan document.

- 1.1 ..... moves to amend H.F. No. 2265; S.F. No. 1890, as follows:
- 1.2 Page 1, line 14, reinstate the stricken language and delete the new language
- 1.3 Page 1, line 15, delete "circumstances set forth" and insert "as further specified"

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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2265

02/15/2012 Authored by Lanning

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act  
1.2 relating to retirement health care; Minnesota State Retirement System health care  
1.3 savings plan; specifying that plan distributions must go to living persons; making  
1.4 other changes of an administrative nature; amending Minnesota Statutes 2010,  
1.5 section 352.98, subdivisions 3, 4, 5, 8.

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

1.7 Section 1. Minnesota Statutes 2010, section 352.98, subdivision 3, is amended to read:

1.8 Subd. 3. **Contributions.** (a) Contributions to the plan must be defined in a  
1.9 personnel policy or in a collective bargaining agreement of a public employer or political  
1.10 subdivision. The executive director may offer different types of trusts permitted under the  
1.11 Internal Revenue Code to best meet the needs of different employer units.

1.12 (b) Contributions to the plan by or on behalf of the participant must be held in trust  
1.13 for reimbursement of eligible health-related expenses for participants and their dependents  
1.14 following termination from public employment or ~~during active employment in other~~  
1.15 circumstances set forth in the plan document. The executive director shall maintain  
1.16 a separate account of the contributions made by or on behalf of each participant and  
1.17 the earnings thereon. The executive director shall make available a limited range of  
1.18 investment options, and each participant may direct the investment of the accumulations  
1.19 in the participant's account among the investment options made available by the executive  
1.20 director.

1.21 (c) This section does not obligate a public employer to meet and negotiate in good  
1.22 faith with the exclusive bargaining representative of any public employee group regarding  
1.23 an employer contribution to a postretirement or active employee health care savings plan  
1.24 authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent

2.1 of the legislature to authorize the state to incur new funding obligations for the costs of  
 2.2 retiree health care or the costs of administering retiree health care plans or accounts.

2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.4 Sec. 2. Minnesota Statutes 2010, section 352.98, subdivision 4, is amended to read:

2.5 Subd. 4. **Reimbursement for health-related expenses.** The executive director  
 2.6 shall reimburse participants at least quarterly for eligible health-related expenses, as  
 2.7 allowable by federal and state law, until the participant exhausts the accumulation in the  
 2.8 participant's account. If a participant dies prior to exhausting the participant's account  
 2.9 balance, the participant's spouse or dependents are eligible to be reimbursed for health care  
 2.10 expenses from the account until the account balance is exhausted. If an account balance  
 2.11 remains after the death of a participant and all of the participant's legal dependents, the  
 2.12 remainder of the account must be paid to the participant's beneficiaries or, if none, to  
 2.13 ~~the participant's estate~~ a living person or persons named by the personal representative  
 2.14 of the estate. The person or persons named must use the account for reimbursement of  
 2.15 allowable health care expenses.

2.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.17 Sec. 3. Minnesota Statutes 2010, section 352.98, subdivision 5, is amended to read:

2.18 Subd. 5. **Fees.** The executive director is authorized to charge uniform fees to  
 2.19 participants to cover the ongoing cost of operating the plan. Any fees not needed must  
 2.20 revert to participant accounts or be used to reduce plan fees in the following year future.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.22 Sec. 4. Minnesota Statutes 2010, section 352.98, subdivision 8, is amended to read:

2.23 Subd. 8. **Exemption from process.** Assets in a ~~health-care~~ health care savings  
 2.24 plan account described in this section must be used for the reimbursement of ~~healthcare~~  
 2.25 health care expenses and are not assignable or subject to execution, levy, attachment,  
 2.26 garnishment, or other legal process, except as provided in section 518.58, 518.581, or  
 2.27 518A.53.

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.