



H.F. 1010
(Hilstrom)

S.F. 1042
(Neuville)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): State Patrol Retirement Plan
Relevant Provisions of Law: Minnesota Statutes, Section 352B.01, Subdivision 2
General Nature of Proposal: Coverage for statewide/multi-jurisdictional coordinator/commander
Date of Summary: March 27, 2007

Specific Proposed Changes

- Add the coordinator/commander of a statewide or multi-jurisdictional law enforcement effort to State Patrol Retirement Plan coverage.

Policy Issues Raised by the Proposed Legislation

1. Whether the proposed coverage is appropriate.
2. Whether there is also a coverage problem for other employees assigned to or hired for multi-jurisdictional law enforcement effort.
3. Whether the proposed coverage is an unnecessary windfall, providing benefits in excess of that which induced the individual to accept the employment.
4. Need to better specify job title.
5. Lack of a stated effective date, could create gap in coverage or other pension problems.

Potential Amendments

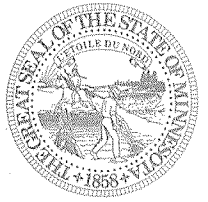
H1010-1A adds effective date, making the provision effective the day following final enactment.

H1010-2A makes the provision effective retroactive to an employment date to be determined.

H1010-3A sets a retroactive effective date and transfers prior contributions to the State Patrol Retirement Plan (alternative to H1010-1A or H1010-2A).

H1010-4A revises the employment title, based on MSRS staff recommendation.

H1010-5A revises Section 626.84, Subdivision 1, to add this statewide coordinator position to the definition of peace officer.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 1010 (Hilstrom); S.F. 1042 (Neuville): State Patrol Retirement Plan: Coverage for the Statewide Coordinator of the Gang and Drug Oversight Council

DATE: March 26, 2007

Summary of H.F. 1010 (Hilstrom); S.F. 1042 (Neuville)

H.F. 1010 (Hilstrom); S.F. 1042 (Neuville) revises the Minnesota State Retirement System (MSRS) State Patrol Retirement Plan member provision, Section 352B.01, Subdivision 2, by adding the coordinator/commander of a statewide or multi-jurisdictional law enforcement effort, making an applicable individual or individuals eligible for State Patrol Retirement Plan coverage.

Background Information on the State Patrol Retirement Plan

The State Patrol Retirement Plan was established in 1943, (Laws 1943, Chapter 637) and initially provided retirement coverage solely for state highway patrol troopers. Currently, the State Patrol Retirement Plan provides retirement coverage for four distinct groups of law enforcement officers, the State Patrol Division of the Department of Public Safety, the Bureau of Criminal Apprehension of the Department of Public Safety, the Enforcement (Game Wardens) Division of the Department of Natural Resources, and the Gambling Enforcement Division of the Department of Public Safety.

A separate retirement plan had been established for game wardens (the Game Wardens Retirement Plan) in 1955. In 1961, the State Police Retirement Plan was established for Bureau of Criminal Apprehension agents and officers and, when it was created, it absorbed the Game Wardens Retirement Plan. In 1969, the State Police Retirement Plan was in turn merged into the State Patrol Retirement Plan. In 1990, law enforcement officers in the Gambling Enforcement Division of the Department of Public Safety were added to the State Patrol Retirement Plan. With the exception of a small number of data processing personnel in the Bureau of Criminal Apprehension who were grandparented into the plan in 1987-1988, all members of the State Patrol Retirement Plan are peace officers licensed by the Peace Officers Standards and Training Board.

As a public safety pension plan, the State Patrol Retirement Plan pays larger retirement annuities, disability benefits, and survivor benefits than a general employee retirement plan and has an earlier normal retirement age for the retirement annuity. Because of these benefit plan differences, the plan has a greater actuarial cost and greater member and employer contributions than a general employee retirement plan. As law enforcement officers, members of the State Patrol Retirement Plan are not covered by Social Security under both state and federal law for their state law enforcement employment.

The retirement benefit provided for a member retiring at the plan's normal retirement age, age 55, is three percent of the high-five average salary for each year of service. A member who is age 55 or older with 30 years of service and has a high-five average salary of \$75,000 will receive an annuity of \$67,500. Members can retire as early as age 50 with only a slight reduction due to early retirement. The reduction is 1/10 of a percent for each month (1.2 percent per year) that the individual is under age 55. These early retirement annuities are subsidized. For disability determinations, the plan uses an occupational definition of disability, an inability to perform the specific job, rather than the more stringent definition used by general employee plans, which require an inability to perform any gainful employment. The disability benefit is generous. If the disability is duty-related, the benefit is computed just like a service pension except there is no reduction due to early receipt. The minimum service-related disability benefit is equivalent to a 20-year service pension. Non-duty-related disability benefits are computed the same way, except that the minimum benefit is equivalent to a 15-year pension, and the individual must have at least one year of service credit to be eligible.

The policy reason for having a more lucrative benefit program for public safety employee retirement plans is that public safety employment (police officer or firefighter service) is particularly hazardous, that it requires the maintenance of a particularly vigorous and robust workforce to meet the strenuous requirements of the employment position, and that the normally expected working career of a public safety employee will be significantly curtailed as a consequence of the hazards and strenuous requirements of that type of employment when compared to a general public employee.

Public employee pension plans are intended to assist the governmental personnel system by encouraging the recruitment of qualified and motivated new employees, the retention of able and valued existing

employees, and the orderly and predictable out-transitioning of employees at the expected end or normal conclusion of their working career. For public safety employees, public safety employee retirement plans provide more lucrative benefits to assist in the recruitment and retention of new and existing personnel, but most clearly emphasize the out-transitioning function.

Actuarial Condition of the State Patrol Retirement Plan

Based on the most recent actuarial study, July 1, 2006, the State Patrol Retirement Plan had a funding ratio 96 percent. While the funding ratio was quite high, the total contributions were 5.7 percent of payroll less than the contribution level needed to pay off the remaining unfunded liabilities by the full funding date. In 2006, the Legislature passed employee and employer contribution rate increases of 2.0 percent for the employee and 3.0 percent for the employer, to be phased in over a few years, to address the problem.

State Patrol Plan 2006		
<u>Membership</u>		
Active Members		851
Service Retirees		626
Disabilitants		41
Survivors		179
Deferred Retirees		33
Nonvested Former Members		<u>8</u>
Total Membership		1,738
<u>Funded Status</u>		
Accrued Liability		\$641,479,078
Current Assets		<u>\$618,990,349</u>
Unfunded Accrued Liability		\$22,488,729
Funding Ratio	96.49%	
<u>Financing Requirements</u>		
Covered Payroll		\$57,765,450
Benefits Payable		\$38,767,492
Normal Cost	24.41%	\$14,098,467
Administrative Expenses	<u>0.18%</u>	<u>\$103,978</u>
Normal Cost & Expense	24.59%	\$14,202,445
Normal Cost & Expense	24.59%	\$14,202,445
Amortization	<u>2.10%</u>	<u>\$1,213,075</u>
Total Requirements	26.69%	\$15,415,520
Employee Contributions	8.40%	\$4,852,298
Employer Contributions	12.60%	\$7,278,447
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	21.00%	\$12,130,745
Total Requirements	26.69%	\$15,415,520
Total Contributions	<u>21.00%</u>	<u>\$12,130,745</u>
Deficiency (Surplus)	5.69%	\$3,284,775

Discussion and Analysis

H.F. 1010 (Hilstrom); S.F. 1042 (Neuville) would allow the coordinator/commander of a statewide or multi-jurisdictional law enforcement effort to be covered by the State Patrol Retirement Plan. As of this writing, Commission staff has no information on the bill other than what is contained in the bill language.

The proposed legislation raises the following pension and related public policy issues:

1. Appropriateness of the Proposed Coverage. The policy issue is why the individual apparently does not meet the requirements of existing law for membership, and whether adding the individual to State Patrol Retirement Plan coverage is appropriate. The general requirement in existing law is that the individual be a State Patrol officer or similar state employee who is a board certified police officer under Section 624.84. A peace officer is defined in Section 624.84 as an employee charged with the prevention and detection of crime and the enforcement of criminal laws, who has the full power of arrest, and includes State Patrol officers, agents of the Division of Alcohol and Gambling Enforcement, State Conservation Officers, Metropolitan Transit Police, Department of Corrections Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers. The Commission may wish to determine if the individual is a board certified police officer, and if not, whether it is appropriate to extend State Patrol plan coverage to the individual. The Commission may also wish to determine whether the position involves dangers typical of public safety employment; if not, public safety plan coverage may not be appropriate.

2. Coverage for Remaining Employees. The issue is lack of any language to deal with other employees in the “statewide or multi-jurisdictional law enforcement effort.” The lack of language suggests that those individuals are covered by a Minnesota plan or plans and that coverage is deemed appropriate for the current employment. This, in turn, raises the question of why a change in coverage is needed for the “coordinator-commander.”
3. Unnecessary Windfall. If an individual has already been hired for the position when that position did not include public safety plan coverage, the issue is that providing public safety plan coverage at this time may provide an unnecessary windfall, more generous than that which was necessary to get the individual to agree to the employment.
4. Appropriate Title. The issue is whether the proposed language to extend coverage is too vague or broad to properly define the eligible position or positions. The language would extend coverage to “a person who is employed as coordinator/commander of a statewide or multi-jurisdictional law enforcement effort.” A “law enforcement effort” is undefined and could be subject to conflicting interpretations. If the Commission reviews the existing law language in the State Patrol Plan “Member” definition provision, it will be evident that titles and employing units are specifically identified to avoid disagreement about who is covered. The Commission may wish to consider stating the specific organization, when that becomes known through testimony or other means, rather than the vague reference to “a statewide or multi-jurisdictional law enforcement effort.” Also, “coordinator/commander” can have multiple interpretations. One reading is that if the individual is not both the commander and the coordinator, the individual is not eligible for coverage. Another is that an individual who is the “coordinator” would be covered by the plan, and the plan would also cover the individual who is the “commander.”

The Commission may also wish to consider adding a requirement that the individual must be a peace officer as defined by Section 629.84. If the individual does not meet that standard, the Commission may wish to consider whether the individual ought to be covered by the State Patrol Retirement Plan.

5. Issues Created by Lack of Effective Date. The bills lack an effective date. Since these are plan coverage bills, the lack of an effective date may result in a gap in coverage, which the Commission might be asked to address at a later date. If the Commission concludes that the bills should pass, the Commission may wish to inquire about when this bill should become effective to avoid a gap in coverage, including whether a retroactive effective date is needed, and whether it is necessary or appropriate to transfer past coverage from some other plan from the date the individual became employed in the applicable coordinator/commander position.

Potential Amendments for Commission Consideration

Amendment H1010-1A adds an effective date making the provision effective on the day after final enactment.

Amendment H1010-2A, an alternative to H1010-1A, would make the provision effective retroactively, to a date to be determined through testimony or other means.

Amendment H1010-3A is an alternative to either H1010-1A or H1010-2A. If the Commission decides to use a retroactive effective date, amendment H1010-3A can be used set that retroactive effective date and to transfer contributions from the fund which provided coverage, from the retroactive effective date to the date the bill is enacted, to the State Patrol Plan. The provision is patterned after a comparable section the Commission used in 2001 when Fugitive Apprehension Officers were given State Patrol Plan coverage. The procedure used in the provision is reasonable provided the period involved is short (a year or two at most rather than several years). The Commission would need to fill in several blanks once it becomes known which fund provided prior coverage and when employment in the position started. If the prior plan was a state wide public safety plan, the transfer language is not needed, although it could be used. Without the transfer, the individual can use the combined service annuity provision, Section 356.30, to create the effect of coverage by a single plan.

Amendment H1010-4A would revise the employment title based on the recommendation of MSRS staff.

Amendment H1010-5A amends Minnesota Statutes, Section 626.84, Subdivision 1, to add this statewide coordinator position. This amendment was drafted at the request of MSRS staff.

Ed Burek

From: Erin Leonard [Erin.Leonard@state.mn.us]
Sent: Monday, March 26, 2007 3:24 PM
To: Ed Burek; Larry Martin
Subject: Amendment to Gang Oversight Coordinator 2007.doc



Amendment to
Gang Oversight Co..

Ed & Larry-

HF1010/SF1042 is on the agenda for Wednesday night. We believe the language as written is too broad and would prefer more specific language to this position. I have drafted an amendment that is consistent with language used in the past.

We would feel more comfortable with the attached language or something similar.

Thank you,
Erin

Erin Leonard
Minnesota State Retirement System
60 Empire Drive Suite 300
St. Paul, MN 55103
phone: 651-284-7848
fax: 651-297-5238

.....moves to amend H.F. No. 1010; S.F. No. 1042; as follows:

Delete paragraph (8) and insert

(8) an employee of the Department of Public Safety, who is a licensed peace officer under Section 626.84, subdivision (1) paragraph (c) and is employed as the statewide coordinator of the Gang and Drug Oversight Council.

Section 2. Minnesota Statutes 2006, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the Board of Peace Officer Standards and Training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections' Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers, and the statewide coordinator of the Gang and Drug Oversight Council; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including

time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency.

(e) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(f) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(g) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

1.1 moves to amend H.F. No. 1010; S.F. No. 1042, as follows:

1.2 Page 2, after line 12, insert:

1.3 **"EFFECTIVE DATE.**

1.4 **This section is effective the day following final enactment."**

1.1 moves to amend H.F. No. 1010; S.F. No. 1042, as follows:

1.2 Page 2, after line 12, insert:

1.3 **"EFFECTIVE DATE.**

1.4 This section is effective the day following final enactment and applies retroactive
1.5 to"

1.1 moves to amend H.F. No. 1010; S.F. No. 1042, as follows:

1.2 Page 2, after line 12, insert:

1.3 "Sec. 2. **DISPOSITION OF CERTAIN CONTRIBUTIONS.**

1.4 (a) The employee contributions for the period to the effective date of this
1.5 section for a person described in Minnesota Statutes, section 352B.01, subdivision 2,
1.6 clause (8), must be transferred, with 8.5 percent annual compound interest for the period
1.7 from the date of the contribution to the date of transfer, from the [insert name of retirement
1.8 fund] to the State Patrol retirement fund.

1.9 (b) The employer contributions associated with the employee contributions governed
1.10 by paragraph (a) also must be transferred for the period from the date of the contribution
1.11 to the date of transfer, with 8.5 percent per annum interest, from the [insert name of
1.12 retirement fund] to the State Patrol retirement fund.

1.13 (c) A person described in Minnesota Statutes, section 352B.01, subdivision 2,
1.14 clause (8), must pay, by additional payroll deduction, to the state patrol retirement fund
1.15 an amount equal to the difference between the transferred employee contributions and
1.16 interest and the full member contribution under Minnesota Statutes, section 352B.02,
1.17 subdivision 1a, plus 8.5 percent annual compound interest on the balance from
1.18 to the date the additional payment is complete. The additional payment must be completed
1.19 by December 31, 2007, or by the date of retirement, whichever is earlier.

1.20 (d) The Department of [insert name of department], for each person described in
1.21 Minnesota Statutes, section 352B.01, subdivision 2, clause (8), must pay, in a lump sum on
1.22 July 1, 2007, to the State Patrol retirement fund an amount equal to the difference between
1.23 the transferred employer contributions and interest and the full employer contribution
1.24 under Minnesota Statutes, section 352B.02, subdivision 1c, plus 8.5 percent annual
1.25 compound interest on the amount from to July 1, 2007.

1.26 Sec. 3. **EFFECTIVE DATE.**

- 2.1 Sections 1 and 2 are effective the day following final enactment and apply retroactive
- 2.2 to"
- 2.3 Amend the title accordingly

1.1 moves to amend H.F. No. 1010; S.F. No. 1042, as follows:

1.2 Page 2, delete lines 11 to 12 and insert "(8) an employee of the Department of Public
1.3 Safety, who is a licensed peace officer under Section 626.84, subdivision 1, paragraph (c),
1.4 and is employed as the statewide coordinator of the Gang and Drug Oversight Council."

1.1 moves to amend H.F. No. 1010; S.F. No. 1042, as follows:

1.2 Page 2, after line 12, insert:

1.3 "Sec. 2. Minnesota Statutes 2006, section 626.84, subdivision 1, is amended to read:

1.4 Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the
1.5 following terms have the meanings given them:

1.6 (a) "Board" means the Board of Peace Officer Standards and Training.

1.7 (b) "Director" means the executive director of the board.

1.8 (c) "Peace officer" means:

1.9 (1) an employee or an elected or appointed official of a political subdivision or
1.10 law enforcement agency who is licensed by the board, charged with the prevention and
1.11 detection of crime and the enforcement of the general criminal laws of the state and who
1.12 has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the
1.13 Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan
1.14 Transit police officers, Department of Corrections' Fugitive Apprehension Unit officers,
1.15 and Department of Commerce Insurance Fraud Unit officers, and the statewide coordinator
1.16 of the Gang and Drug Oversight Council; and

1.17 (2) a peace officer who is employed by a law enforcement agency of a federally
1.18 recognized tribe, as defined in United States Code, title 25, section 450b(e), and who
1.19 is licensed by the board.

1.20 (d) "Part-time peace officer" means an individual licensed by the board whose
1.21 services are utilized by law enforcement agencies no more than an average of 20 hours per
1.22 week, not including time spent on call when no call to active duty is received, calculated
1.23 on an annual basis, who has either full powers of arrest or authorization to carry a
1.24 firearm while on active duty. The term shall apply even though the individual receives
1.25 no compensation for time spent on active duty, and shall apply irrespective of the title
1.26 conferred upon the individual by any law enforcement agency.

2.1 (e) "Reserve officer" means an individual whose services are utilized by a law
 2.2 enforcement agency to provide supplementary assistance at special events, traffic or crowd
 2.3 control, and administrative or clerical assistance. A reserve officer's duties do not include
 2.4 enforcement of the general criminal laws of the state, and the officer does not have full
 2.5 powers of arrest or authorization to carry a firearm on duty.

2.6 (f) "Law enforcement agency" means:

2.7 (1) a unit of state or local government that is authorized by law to grant full powers
 2.8 of arrest and to charge a person with the duties of preventing and detecting crime and
 2.9 enforcing the general criminal laws of the state; and

2.10 (2) subject to the limitations in section 626.93, a law enforcement agency of a
 2.11 federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

2.12 (g) "Professional peace officer education" means a postsecondary degree program,
 2.13 or a nondegree program for persons who already have a college degree, that is offered by
 2.14 a college or university in Minnesota, designed for persons seeking licensure as a peace
 2.15 officer, and approved by the board.

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

2.17 Renumber the sections in sequence and correct the internal references

2.18 Amend the title accordingly

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in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE NO. **1010**

February 15, 2007

Authored by Hilstrom

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; public safety; adding the statewide coordinator of the Gang
1.3 and Drug Oversight Council to the law enforcement retirement fund; amending
1.4 Minnesota Statutes 2006, section 352B.01, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2006, section 352B.01, subdivision 2, is amended to read:

1.7 Subd. 2. **Member.** "Member" means:

1.8 (1) a State Patrol member currently employed under section 299D.03 by the state,
1.9 who is a peace officer under section 626.84, and whose salary or compensation is paid
1.10 out of state funds;

1.11 (2) a conservation officer employed under section 97A.201, currently employed by
1.12 the state, whose salary or compensation is paid out of state funds;

1.13 (3) a crime bureau officer who was employed by the crime bureau and was a member
1.14 of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person
1.15 has the power of arrest by warrant after that date, or who is employed as police personnel,
1.16 with powers of arrest by warrant under section 299C.04, and who is currently employed
1.17 by the state, and whose salary or compensation is paid out of state funds;

1.18 (4) a person who is employed by the state in the Department of Public Safety in a
1.19 data processing management position with salary or compensation paid from state funds,
1.20 who was a crime bureau officer covered by the State Patrol retirement plan on August
1.21 15, 1987, and who was initially hired in the data processing management position within
1.22 the department during September 1987, or January 1988, with membership continuing
1.23 for the duration of the person's employment in that position, whether or not the person
1.24 has the power of arrest by warrant after August 15, 1987;

2.1 (5) a public safety employee who is a peace officer under section 626.84, subdivision
2.2 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling
2.3 Enforcement under section 299L.01;

2.4 (6) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed by
2.5 the Office of Special Investigations of the Department of Corrections and who is a peace
2.6 officer under section 626.84; ~~and~~

2.7 (7) an employee of the Department of Commerce defined as a peace officer in section
2.8 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud
2.9 Prevention under section 45.0135 after January 1, 2005, and who has not attained the
2.10 mandatory retirement age specified in section 43A.34, subdivision 4-; and

2.11 (8) a person who is employed as coordinator/commander of a statewide or
2.12 multijurisdictional law enforcement effort.