



H.F. 1911
(Murphy, M.)

S.F. 937
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352.91, Subdivisions 3d and 4b
General Nature of Proposal: Adds additional Department of Corrections employees to plan coverage
Date of Summary: April 23, 2007

Specific Proposed Changes

- Adds two occupational titles, involving nine State Department of Corrections employees to the MSRS-Correctional Plan.
- Permits the transfer of MSRS-General service credit to MSRS-Correctional for past correctional service.

Policy Issues Raised by the Proposed Legislation

1. Adequacy of the assessment/determination process.
2. Extent of actual inmate/patient/client contact in the recommended inclusions.
3. Extent of compliance with other historic MSRS-Correctional coverage requirements
4. Appropriateness of inclusion in light of lack of transfer recommendations in 1996, 1998, 1999, and 2006.
5. Appropriateness of the elimination of laundry coordinator position from MSRS-Correctional membership.
6. Actuarial condition of MSRS-Correctional.
7. Budget impact on department from coverage transfers.
8. Appropriateness of retroactive coverage for past position service.

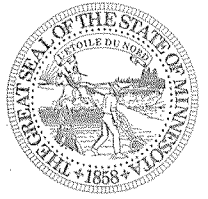
Potential Amendments

H1911-1A (substantive) addresses MSRS-Correctional contribution deficiency with contribution increases over current phase-in period.

H1911-2A (substantive) addresses MSRS-Correctional contribution deficiency with additional two-year extension to the current phase-in period.

H1911-3A (substantive) allows transfer of prior correctional service credit to MSRS-Correctional from MSRS-General with additional member contribution payment.

H1911-4A (substantive) adds additional employer contributions to prior service credit transfer payment obligation.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: H.F. 1911 (Murphy, M.); S.F. 937 (Betzold): MSRS-Correctional; Including Additional Department of Corrections Employees in Plan Coverage

DATE: April 23, 2007

Summary of H.F. 1911 (Murphy, M.); S.F. 937 (Betzold)

H.F. 1911 (Murphy, M.); S.F. 937 (Betzold) amends Minnesota Statutes, Section 352.91, Subdivisions 3d and 4b, portions of the statutes governing the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) that define the employment positions with the Department of Corrections that are covered by the plan, by adding the positions of corrections program therapist (__ employees) and plant maintenance engineer lead (one employee) by requiring the department review committee to evaluate eligible prior service credit for potential transfer to MSRS-Correctional; and by providing for past service credit transfers for 2006 and 2007 newly included personnel who desire to do so.

Background Information

- a. MSRS-Correctional Retirement Plan. Background information on the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) is contained in Attachment A.
- b. Department of Corrections Facilities with MSRS-Correctional Plan-Covered Employees. Background information on the three facilities/programs operated by the Department of Corrections with employees covered by the MSRS-Correctional Plan is set forth in Attachment B.
- c. Department of Corrections correctional employee retirement plan policy. The Department of Corrections correctional employee retirement plan policy, Minnesota Statutes, Section 352.91, Subdivision 4b, is set forth in Attachment C.

Analysis and Discussion

H.F. 1911 (Murphy, M.); S.F. 937 (Betzold) amends the membership inclusion provisions of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) to add to plan coverage two occupational titles within the Department of Corrections, involving nine current state employees, to add past service credit transfer eligibility to the internal eligibility determination process, and to provide for potential transfers newly included in plan coverage in 2006 and 2007.

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

1. Adequacy of the Assessment/Determination Process. The policy issue is the adequacy of the process implemented by the Department of Corrections for identifying departmental employment positions for potential inclusion in the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and its determination of positions for recommendation to the Legislature. Since the MSRS-Correctional Plan was expanded from prison guards and security hospital guards in 1974, both explicit statutory requirements for coverage and historic requirements for coverage have been utilized to decide which occupational positions to include in the plan coverage. If the department has internalized the statutory and historic criteria and has seriously and rigorously implemented those criteria in making its recommendations, the Commission and the Legislature can rely on that process without any extensive or intensive scrutiny of the recommendations. This is the second year that the department has undertaken these formal reviews with a recommendation of statutory additions and deletions, with the internal process still likely to be in its formative stages or subject to refinement. The process utilized by the Department of Corrections is governed by Minnesota Statutes, Section 352.91, Subdivision 4b, as set forth in Attachment C. The Commission should take sufficient testimony from the department and collective bargaining representatives to gain a comfort level about the department's seriousness, rigor, and conformity to explicit and historic special retirement plan coverage standards in its process.

2. Extent of Actual Inmate/Patient/Client Contact in the Recommended Inclusions. The policy issue is whether or not the two occupational positions and the nine incumbents in those positions recommended by the department actually engage in the required 75 percent of working time direct inmate or patient contact requirement contained in Minnesota Statutes, Section 352.91. The Commission staff reviewed each supplied job description and assessed the job description percentage attribution elements for inmate or patient contact, either “unclear” if contact was not predominantly or exclusively indicated, “clear” if contact was predominantly or exclusively indicated, and “none indicated” where inmate or patient contact is not indicated at all. While the Commission staff appraisal of the job descriptions is not a substitute for the rigorous process that the department was required to utilize in making its recommendations, the analysis does allow the Commission to focus on those recommendations that might be borderline qualified or actually unqualified. Based on the job description appraisal of the extent of inmate contact, the Commission staff recommends that the Commission take additional testimony or additional appropriate steps to verify the extent of actual contact for the following employment positions for the following identified reasons:

- a. “No contact” elements totaled at least 25 percent of working time. One Department of Corrections job descriptions has work elements that included no indicated contact with inmates or patients and the total of those elements is more than nominal. The position that may merit additional scrutiny by the Commission in this regard is the Plant Maintenance Engineer Lead.
- b. “Unclear contact” percentage very large. The other Department of Corrections job descriptions have elements of inmate contact, but have elements without the inmate contact items appearing to predominate. The position that may merit additional scrutiny in this regard is the Corrections Program Therapist 4 at the various correctional facilities other than MCF-St. Cloud.

The process of the Department of Corrections relating to the evaluation of potential inclusion in the MSRS-Correctional Plan does not reference the use of actual job audits by a human resources professional (either facility-based or non-facility), although job audits may actually have been a part of the process. If the positions identified above were the subject of job audits by a disinterested human resources professional and if records of the applicable audits were available for Commission or Commission staff review, the Commission could more reasonably rely on the results of review job audits.

3. Extent of Compliance With Other Historic MSRS-Correctional Plan Coverage Requirements. The policy issue is the extent of compliance by the Department of Corrections with other coverage transfer requirements that the Commission has historically utilized. Since the Commission first reviewed demands from trades personnel and special teachers to be included in MSRS-Correctional Plan coverage in 1974, the Commission has considered as part of its consideration of potential MSRS-Correctional membership inclusion the questions of:

- i. whether or not the considered occupational position was responsible to intervene in the event of a facility incident;
- ii. whether or not the extent that workers’ compensation claims support the notion that the hazards of the positions approximate that of a public safety position; and
- iii. whether or not the extent that the position’s duty days lost to incidents or employment hazards are consistent with a public safety-like position.

The Commission staff requested from the department information on the compliance of the various occupational positions recommended for MSRS-Correctional Plan inclusion with these historic requirements. For the Department of Corrections employees, department information indicated that all of the employees proposed for MSRS-Correctional inclusion have, as an employment requirement, the obligation to intervene in the event of a facility incident. With respect to workers’ compensation claims, the department provided claims information for seven employees, but only one of those employees is proposed for inclusion in MSRS-Correctional and that employee had two claims, one an injury from a patient altercation and one an allergic reaction to spraying a chemical disinfectant. With respect to lost work time from facility incidents or employment hazards, the department reported any lost time by employees was covered by workers’ compensation.

From the provided information, the hazards of the employment position are not independently substantiated and must be assessed from other indicators.

4. Appropriateness of Inclusion in Light of Lack of Transfer Recommendations in 1996, 1998, 1999, and 2006. The policy issue is the appropriateness of the proposed transfers when the occupational positions were not recommended for transfer to the MSRS-Correctional Plan in 1996, the last comprehensive review of the Department of Corrections and transfer recommendation process for the

plan, in the department-sponsored administrative transfers that occurred in June 1998, June 1999, and December 1999, or in the inclusion recommendations reviewed by the Commission in 2006. If the extent of inmate contact is as great as suggested in the current recommendations, the positions should have been likely candidates for transfer previously, and some explanation should be provided why these occupational positions were not included in those past transfer requests. Over the last decade, there should have been a heightened awareness about retirement plan coverage issues and consequently the department should have identified these positions as eligible for transfer previously or something dramatically changed about the employment positions recently.

Specifically, in this regard, three employment positions are certified by the Department of Human Services as having 100 percent of the employee's working time spent in inmate or patient contact (Human Services Support Specialist, Licensed Alcohol and Drug Counselor, and Security Supervisor), one employment position is certified by the Department of Human Services as having 95 percent of the employee's working time spent in inmate or patient contact (Special Education Program Assistant) and two employment positions are certified by the Department of Human Services as having 90 percent of the employee's working time spent in inmate or patient contact (Certified Occupational Therapy Assistant 1 and Certified Occupational Therapy Assistant 2). Unless those positions have been newly created since 2006 or have had a substantial change in their duties that greatly increased inmate or patient contact, it is logical to conclude that the extent of the position's inmate or patient contact should have been evident to a well-designed or well-implemented evaluation process previously.

5. Appropriateness of the Elimination of Laundry Coordinator Position from MSRS-Correctional Plan Membership. The policy issue is the appropriateness of the proposed elimination of the reference to the laundry coordinator position in Minnesota Statutes, Section 352.91, Subdivision 3d, in light of the inclusion of the position in plan coverage in 2006 (Laws 2006, Chapter 271, Article 2, Section 5). The MCF-Faribault laundry coordinator position was included in the Department of Corrections recommendation on inclusions, but was questioned by the Commission staff because the job description included job elements without inmate contact that exceeded 25 percent. The Department of Corrections strongly asserted that the position had sufficient contact, even though the job description did not reflect that circumstance. One year later, the Department of Corrections is recommending excluding the position from plan inclusion, although "laundry coordinator" still appears as a job title on the Department of Employee Relations (DOER) website. The Commission may wish to inquire from the department about the rationale for the removal of this position title from the plan membership.
6. Actuarial Condition of MSRS-Correctional. The policy issue is the actuarial condition of the MSRS-Correctional Retirement Plan. The following sets forth the July 1, 2004, July 1, 2005, and July 1, 2006, actuarial valuation results for the MSRS-Correctional Plan:

	2004		2005		2006	
<u>Membership</u>						
Active Members		3,326		3,607		3,910
Service Retirees		943		1,025		1,101
Disabilitants		154		150		168
Survivors		91		104		106
Deferred Retirees		678		738		817
Nonvested Former Members		<u>339</u>		<u>351</u>		<u>388</u>
Total Membership		5,531		5,975		6,490
<u>Funded Status</u>						
Accrued Liability		\$524,215,028		\$546,117,680		\$647,480,269
Current Assets		<u>\$486,617,032</u>		<u>\$503,573,272</u>		<u>\$535,356,819</u>
Unfunded Accrued Liability		\$37,597,996		\$42,544,408		\$112,123,450
Funding Ratio	92.83%		92.21%		82.68%	
<u>Financing Requirements</u>						
Covered Payroll		\$134,117,624		\$147,385,402		\$162,744,640
Benefits Payable		\$17,265,693		\$19,025,766		\$26,506,726
Normal Cost	14.96%	\$20,066,740	15.01%	\$22,111,459	17.69%	\$28,786,714
Administrative Expenses	<u>0.20%</u>	<u>\$268,235</u>	<u>0.20%</u>	<u>\$294,771</u>	<u>0.21%</u>	<u>\$341,764</u>
Normal Cost & Expense	15.16%	\$20,334,975	15.21%	\$22,406,230	17.90%	\$29,128,478
Normal Cost & Expense	15.16%	\$20,334,975	15.21%	\$22,406,230	17.90%	\$29,128,478
Amortization	<u>2.31%</u>	<u>\$3,098,117</u>	<u>2.50%</u>	<u>\$3,684,635</u>	<u>5.44%</u>	<u>\$8,853,309</u>
Total Requirements	17.48%	\$23,433,092	17.71%	\$26,090,865	23.34%	\$37,981,787

	2004		2005		2006	
Employee Contributions	5.69%	\$7,631,293	5.69%	\$8,386,229	5.69%	\$9,260,170
Employer Contributions	7.98%	\$10,702,586	7.98%	\$11,761,355	7.98%	\$12,987,022
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0
Administrative Assessment	0.00%	\$0	0.00%	\$0	0.00%	\$0
Total Contributions	13.67%	\$18,333,879	13.67%	\$20,147,584	13.67%	\$22,247,192
Total Requirements	17.48%	\$23,433,092	17.71%	\$26,090,865	23.34%	\$37,981,787
Total Contributions	13.67%	\$18,333,879	13.67%	\$20,147,584	13.67%	\$22,247,192
Deficiency (Surplus)	3.81%	\$5,099,213	4.04%	\$5,943,281	9.67%	\$15,734,595

Revised actuarial assumptions were approved by the Commission in December 2005, and were first included in the July 1, 2006, actuarial valuation. The assumption changes as well as experience factors have further eroded the adequacy of the funding of the plan. The 2006 Session began a phase-in of increased member and employer contributions over the period 2007-2010, but even with the contribution increases fully phased in, the plan has a contribution deficiency of some magnitude, as follows:

	MSRS-Correctional	
Normal Cost	17.69%	\$28,786,714
Admin. Expenses	0.21%	\$341,764
Amortization	5.44%	\$8,853,309
Total Req.	23.34%	\$37,981,787
Employee Contrib.	8.60%	\$13,996,039
Employer Contrib.	12.10%	\$19,692,101
Total Contrib.	20.70%	\$33,688,140
Total Requirements	23.34%	\$37,981,787
Total Contributions	20.70%	\$33,688,140
Deficiency/(Surplus)	2.64%	\$4,293,647

An expansion of the MSRS-Correctional Plan membership is likely to add some additional pressure to the contribution deficiency situation unless the newly included members have significantly younger entry ages than the current plan membership.

To gain contribution sufficiency for the retirement plan, additional increases will be needed in the member and employer contribution rates to the retirement plan. **Amendment H1911-1A** would retain the current contribution increase phase-in period, until 2010, but increases each incremental increase to eliminate the contribution deficiency. **Amendment H1911-2A** would extend the contribution increase phase-in period from 2010 to 2012, with additional increments resulting in a sufficient total contribution in 2012.

- Budget Impact on Department from Coverage Transfers. The policy issue is the impact on the budget of the Department of Human Services if the recommended transfers are approved. The upcoming (July 1, 2007) employer contribution for MSRS-General is 4.25 percent and the ultimate MSRS-General employer contribution in 2010 will be 5.00 percent. The upcoming (July 1, 2007) MSRS-Correctional employer contribution rate is 9.10 percent and the ultimate MSRS-Correctional employer contribution in 2010 will be 12.10 percent. If the affected employees earn, on average, the current (July 1, 2006) MSRS-Correctional Plan average salary of \$41,623, the initial increase in the employer contribution rate of 4.85 percent would total \$18,168 and the fully phased-in increase in the employer contribution rate of 7.10 percent would total \$26,597.
- Appropriateness of Retroactive Coverage for Past Position Service. The policy issue is whether or not the process for evaluating the amount of credit for past service in the employment position proposed to be newly included in coverage by the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) to be transferred from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to MSRS-Correctional is accurate and appropriate. The Department of Corrections did not address the issue of past service credit for its employees newly included in MSRS-Correctional in 2006, but did address the issue this year. The Commission staff did request information on past service by this set of employees proposed for MSRS-Correctional Plan inclusion and 28 have some prior service credit for potential transfer (the other two are current MSRS-Correctional Plan members with occupational position title changes), with the bulk of the prior service dating to late 2006 or early 2007. There were two employees with past Department of Human Services service dating to late 2005. If the past service credit issue is not addressed when a plan coverage change occurs or soon thereafter, the issue will likely arise again at

the brink of eventual retirement, when handling the issue as a prior service credit purchase will be much more expensive for the affected employees and the appropriateness of transferring past service credit will be difficult or impossible to accurately determine because job records and memories will be lost or less reliable.

If the Commission wishes to provide for past service credit transfers from MSRS-General to MSRS-Correctional for employees with prior service credit in their current position or a prior position that is determined to qualify as correctional service, **Amendment H1911-3A** is an updated service credit transfer, additional member contribution payment, and prior asset transfer provision derived from the 1996 MSRS-Correctional Plan expansion (Laws 1996, Chapter 408, Article 8, Section 22). The approach underlying Amendment H1911-3A is premised on the status of the MSRS-Correctional Plan being virtually a single employer retirement plan (covering portions of two state departments) and on historically having a contribution sufficiency, meaning that any unfunded actuarial accrued liability attributable to past service credit transfers would be retired systematically. Since the plan no longer has a contribution sufficiency, and since there could be inappropriate cost shifting between the two departments as these membership expansions become routine, it would be appropriate to have each department pay past additional equivalent employer contributions at the time of service credit transfers and to retire any additional unfunded actuarial accrued liability retired over a short period of years. **Amendment H1911-4A** adds these additional employer contribution/payment requirements to Amendment H1911-3A.

Attachment A

Background and Historical Information on the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional)

1. Pre-1973 Correctional State Employee Retirement Coverage. Before 1973, all employees of the Department of Corrections were covered by the State Employees Retirement Association (SERA) until 1967, and then by SERA's successor, the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). MSRS-General's predecessor was established in 1929 (Laws 1929, Chapter 191).

MSRS-General has been a defined benefit plan since its creation 1929 and has been entirely coordinated with the federal Social Security program since 1957. At that time, coordination was available on an "all or none" basis. The then SERA members, by a majority vote on a Social Security referendum, chose coordination. At the same time, and on the same basis of all or none coverage, the other two statewide funds, the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Teachers Retirement Association (TRA), held similar referenda, which were rejected by the existing membership of those plans. TRA coordinated with Social Security in 1959 on a "split fund" basis, with the members who did not elect Social Security coverage placed in a phasing-out Basic program. In 1965-1967, PERA coordinated on a "split fund" basis.

The SERA/MSRS-General benefit plan has changed considerably since 1929. Significant plan changes have occurred in 1967, when retirement coverage and contributions were extended to a person's full salary (up to a limit of \$4,800 before 1965 and a limit of \$7,200 before 1967), in 1969, when the predecessor to the Minnesota Post Retirement Investment Fund was created, in 1973, when the calculation of retirement benefits shifted from a career average salary to the highest five successive years average salary and the benefit accrual rates were simplified and increased, in 1989, when the "Rule of 90" benefit tier was created, in 1992, when the Minnesota Post Retirement Investment Fund adjustment mechanism was revised, and in 1997, when the benefit accrual rates were increased to achieve "uniformity" among the various general employee retirement plans.

2. 1973 Creation of the MSRS-Correctional Retirement Plan. The Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) was established in 1973 as a result of collective bargaining by the State of Minnesota with the American Federation of State, County and Municipal Employees, Council 6, and the resulting implementing legislation (Laws 1973, Chapter 653, Sections 39 to 44). The membership of the 1973 plan was limited to a small number of employees of the Department of Corrections or of the Department of Public Welfare (now Human Services), as follows:

Attendant Guard	Director of Attendant Guards
Attendant Guard Supervisor	Guard Farmer Garden
Correctional Captain	License Plant Manger
Correctional Counselor I	Prison Industry Foreman
Correctional Counselor II	Prison Industry Supervisor
Correctional Counselor III	Food Service Manager
Correctional Counselor IV	Prison Farmer Supervisor
Correctional Lieutenant	Prison Farmer Assistant Supervisor
Correctional Officer	Rehabilitation Therapist
Correctional Sergeant	

Pre-July 1, 1973, service in a covered position was generally transferred from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), as was prior State employment as a houseparent, guard instructor, and guard farmer dairy. The identification of the State personnel for inclusion in the plan was made by the collective bargaining process and the administrations of the two affected departments. Although a separate retirement plan, MSRS-Correctional shared the State Employees Retirement Fund as its funding and investment mechanism until 1987, when a separate retirement fund was created for the MSRS-Correctional Retirement Plan. The creation of the MSRS-Correctional Retirement Plan, with an age 55 normal retirement age, coincided with the imposition of a statutory early mandatory retirement age for correctional personnel covered by MSRS-Correctional. Under Laws 1973, Chapter 653, Section 12, the previously applicable age 70 mandatory retirement age was reduced for correctional employees to age 65 as of July 1, 1974, to age 62 as of January 1, 1975, and phased down to age 55 as of July 1, 1976. The creation of the MSRS-Correctional Plan was part of an initiative to accelerate the retirement of the prior cadre of Minnesota prison guards, to upgrade the function and reliability of the security personnel at the State's correctional facilities, reflected in the renaming of the prison guards as correctional officers, to increase the pre-

