



**H.F. 1912**  
(Murphy, M.)

**S.F. 423**  
(Betzold)

### **Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* MSRS-Correctional  
*Relevant Provisions of Law:* Minnesota Statutes, Section 352.91, Subdivisions 3a and 3f  
*General Nature of Proposal:* Inclusion of additional Department of Human Services employees in plan coverage  
*Date of Summary:* April 23, 2007

### **Specific Proposed Changes**

- Adds nine occupational titles, involving 30 current employees of the State Department of Human Services, to the MSRS-Correctional Plan.

### **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 in light of lack of transfer recommendations in 1996, 1998, 1999, and 2006.
5. Actuarial condition of MSRS-Correctional.
6. Budget impact on department from coverage transfers.
7. Appropriateness of adding positions without incumbents to Minnesota Statutes, Section 352.91, Subdivision 3e.
8. Undressed issue of retroactive coverage for past position service.

### **Potential Amendments**

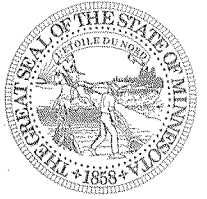
H1912-1A (substantive) addresses MSRS-Correctional contribution deficiency with contribution increases over current phase-in period.

H1912-2A (substantive) addresses MSRS-Correctional contribution deficiency with additional two-year extension to the current phase-in period.


H1912-3A (substantive) eliminates from coverage a position proposed for inclusion but lacks any incumbents.

H1912-4A (substantive) allows transfer of prior correctional service credit to MSRS-Correctional from MSRS-General with additional member contribution payment.

H1912-5A (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 

RE: H.F. 1912 (Murphy, M.); S.F. 423 (Betzold): MSRS-Correctional; Including Additional Department of Human Services Employees in Plan Coverage

DATE: April 23, 2007

Summary of H.F. 1912 (Murphy, M.); S.F. 423 (Betzold)

H.F. 1912 (Murphy, M.); S.F. 423 (Betzold) amends Minnesota Statutes, Section 352.91, Subdivisions 3a and 3f, portions of the statutes governing the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) that define the employment positions within the Department of Human Services that are covered by the plan, by correcting the title of one currently included employment position in the Minnesota Extended Treatment Options Program (METO) and by including in plan coverage nine additional employment positions (30 state employees) at the Minnesota Security Hospital or in the Minnesota Sex Offender Program, and by removing from plan coverage one occupational title within the Department of Human Services without any incumbents.

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 Human Services Facilities with MSRS-Correctional Plan-Covered Employees. Background information on the three facilities/programs operated by the Department of Human Services with employees covered by the MSRS-Correctional Plan is set forth in Attachment B.
- c. Department of Human Services 2005 Correctional Employee Retirement Plan Policy. The Department of Human Services 2005 correctional employee retirement plan policy is set forth in Attachment C.

Analysis and Discussion

H.F. 1912 (Murphy, M.); S.F. 423 (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 nine occupational titles within the Department of Human Services, involving 30 current state employees, to remove one occupational title within the Department of Human Services without an incumbent, from plan coverage, and corrects the name of one occupational title with the Department of Human Services, with four incumbents, to reflect recent nomenclature changes.

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 Human Services 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 Human Services is governed by its policy set forth in Attachment D. If the Commission is going to defer to or rely on this determination process, the Commission should take sufficient testimony from the department 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 nine occupational positions and the 30 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. **Attachment D** summarizes the information on inmate or patient contact contained in the job descriptions provided by the Department of Human Services, including an assessment certification form completed by supervisory staff. 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, “employment with mix” where the inmate or patient contact occurred in the context of employment duties for another program not covered by the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), 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 presumably rigorous process that the department utilized 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 or patient contact, the Commission staff would recommend 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. Some Department of Human Services job descriptions have 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 Customer Service Specialist Principal position.
- b. “Unclear contact” percentage very large. Some Department of Human Services job descriptions have elements of inmate contact and elements without the inmate contact items appearing to predominate. The positions that may merit additional scrutiny in this regard are:
  - Customer Service Specialist Principal
  - Management Analyst 3
  - Recreation Therapist, Lead
  - Security Supervisor
- c. “Clear” contact elements less than 75 percent of working time. The Department of Human Services job descriptions have work time elements that clearly indicate inmate or patient contact, but those “clear contact” element totals are less than 75 percent. The positions that may merit additional scrutiny by the Commission in this regard are:
  - Customer Service Specialist Principal
  - Human Services Support Specialist
  - Management Analyst 3
  - Recreation Therapist, Lead
  - Security Supervisor

The written process of the Department of Human Services 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 (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 reasonably could 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 Human Services 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:

- a. whether or not the considered occupational position was responsible to intervene in the event of a facility incident;
- b. 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
- c. 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 Human Services 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 two employees with lost work time, but only one employee is proposed for MSRS-Correctional inclusion and was connected to the workers' compensation claim.

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

4. Appropriateness 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. The Commission staff has raised this issue with the department.

5. 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

	2004		2005		2006	
Normal Cost	14.96%	\$20,066,740	15.01%	\$22,111,459	17.69%	\$28,786,714
Administrative Expenses	0.20%	\$268,235	0.20%	\$294,771	0.21%	\$341,764
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	2.31%	\$3,098,117	2.50%	\$3,684,635	5.44%	\$8,853,309
Total Requirements	17.48%	\$23,433,092	17.71%	\$26,090,865	23.34%	\$37,981,787
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 sufficient contribution for the retirement plan, additional increases will be needed in the member and employer contribution rates to the retirement plan. **Amendment H1912-1A** would retain the current contribution increase phase-in period, until 2010, but increased each incremental increase to eliminate the contribution deficiency. **Amendment H1912-2A** would extend the contribution increase phase-in period from 2010 to 2012, resulting in a sufficient total contribution in 2012.

6. 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 30 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 \$60,561 and the fully phased-in increase in the employer contribution rate of 7.10 percent would total \$88,657.
7. Appropriateness of Adding Positions Without Incumbents to Minnesota Statutes, Section 352.91, Subdivision 3e. The policy issue is the appropriateness of adding positions to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) without any incumbents in the positions on which to base a determination of the extent of inmate or patient contact and other relevant factors for inclusion. Specifically, the Department of Human Services proposes to add the classification of Certified Occupational Therapy Assistant 2 to plan coverage in anticipation that Certified Occupational Therapy Assistant 1's will be reallocated to the occupational class in the future. Without an incumbent in the position to rigorously evaluate the assessment of the nature of the job and its appropriateness for inclusion, the proposal is more conjecture than factual

determination, which is both inappropriate and premature, especially since future requests for inclusions into MSRS-Correctional can be expected annually. **Amendment H1912-3A** removes the Certified Occupational Therapy Assistant 2 position for retirement plan inclusion. The Certified Occupational Therapy Assistant 2 position was removed from inclusion from last year's proposed inclusions.

8. Unaddressed Issue of Retroactive Coverage for Past Position Service. The policy issue is whether or not 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) should be transferred from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to MSRS-Correctional. The Department of Human Services did not address the issue of past service credit for its employees newly included in MSRS-Correctional in 2006 and has not addressed the issue again 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 H1912-4A** 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 H1912-4A 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 H1912-5A** adds these additional employer contribution/payment requirements to Amendment H1912-4A.

