



H.F. 2363

(Murphy, M., by request)

S.F. 2020

(Prettner Solon)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional Retirement Plan
Relevant Provisions of Law: Uncoded special law provision
General Nature of Proposal: Transfer of service credit for pre-2006 Correctional employment
Date of Summary: March 27, 2007

Specific Proposed Changes

- Authorizes Department of Human Services employee at the Minnesota Sex Offender Program (MSOP) who was included in the MSRS-Correctional Plan in 2006 to transfer past MSOP service credit from MSRS-General to MSRS-Correctional.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of special legislation case-by-case or general legislation.
2. Appropriateness of adding direct obligation for employer to pay the employer contribution differential.
3. Appropriateness of adding employing unit employer amortization contribution.

Potential Amendments

- H2363-1A Drops employer contribution differential funding requirement (substantive).
- H2363-2A Changes amortization period for additional amortization contribution requirement (substantive).
- H2363-3A Drops additional employer amortization funding requirement (substantive).



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: H.F. 2363 (Murphy, M., by request); S.F. 2020 (Prettner Solon): MSRS-Correctional; Transfer of MSRS-General Service Credit of Moose Lake-MSOP Psychologist I

DATE: March 26, 2007

Summary of H.F. 2363 (Murphy, M., by request); S.F. 2020 (Prettner Solon)

H.F. 2363 (Murphy, M., by request); S.F. 2020 (Prettner Solon) is an uncoded provision that transfers past service credit in the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) for a psychologist 1 in the Department of Human Services' Minnesota Sex Offender Program at Moose Lake, Minnesota, who had retirement coverage transferred to MSRS-Correctional in 2006, with a transfer of assets attributable to the affected employees and the payment by the employee of the differential between the member contributions in the two plans, plus interest, the payment by the Department of Human Services of the differential between the employer contributions in the two plans, and an employer-paid additional five-year amortization payment for any unfunded amount not otherwise paid.

Public Pension Problem of Dale A. Clauson

Dale A. Clauson is a Duluth resident who is a psychologist 1 employed by the Department of Human Services at the Minnesota Sex Offender Program (MSOP) at Moose Lake, was initially a member of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) since first becoming employed by the State of Minnesota in 2002, and was transferred to retirement coverage by the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) for prospective service after July 1, 2006. Mr. Clauson wants MSRS-Correctional coverage for the entirety of his employment in the MSOP psychologist position, including the 3.75 years currently covered by MSRS-General.

Background Information on the MSRS-Correctional Retirement Plan

Background information on the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) is set forth in Attachment A.

Discussion and Analysis

H.F. 2363 (Murphy, M., by request); S.F. 2020 (Prettner Solon) provides for a transfer of service credit for pre-July 1, 2006, State correctional employment to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) for an employee of the Department of Human Services who works in the Minnesota Sex Offender Program at the Moose Lake facility and who was transferred to MSRS-Correctional coverage for post-June 30, 2006, employment. The uncoded provision requires the payment by the affected employee of the differential in employee contributions, with interest, and funds the balance of the actuarial liability for the transfer from a transfer of accumulated assets on behalf of the applicable employee from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and from additional contributions by the Department of Human Services.

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

1. Appropriateness of Special Legislation for Mr. Clauson Rather Than General Legislation. The policy issue is whether the transfer of service credit from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) for Dale A. Clauson and any similarly situated employees is best handled as individually drawn special legislation or whether it is best handled as general legislation. Prior to the 2006 expansion of the MSRS-Correctional Plan, virtually all legislation expanding the coverage of the plan generally provided a mechanism to transfer

past State service credit for qualifying pre-inclusion correctional employment. Neither the Department of Corrections nor the Department of Human Services, in the 2006 inclusion legislation that they requested, sought a mechanism for transferring past MSRS-General coverage for qualifying pre-inclusion correctional employment for 2006 transferees. Mr. Clauson was transferred to MSRS-Correctional coverage in 2006. This session, in its MSRS-Correctional coverage expansion request, H.F. 1911 (Murphy, M.); S.F. 937 (Betzold), the Department of Corrections is proposing a transfer of prior MSRS-General service credit for qualifying employment, including 2006 transfers. The Department of Human Services did not include any service credit transfer mechanism in its 2007 coverage expansion request, H.F. 1912 (Murphy, M.); S.F. 423 (Betzold), and the Commission staff has ascertained that it is the department's position that past service credit transfers should be handled by the affected employees through special legislation (March 13, 2007, email from Martha J. Watson, Human Resources Director, Department of Human Services, to Bob Haag, Minnesota Association of Professional Employees). The Commission is likely to consider the department requests for additional MSRS-Correctional coverage inclusions during this legislative session and the issue will again be raised at large if the Commission does hear H.F. 1911 (Murphy, M.); S.F. 937 (Betzold), and H.F. 1912 (Murphy, M.); S.F. 423 (Betzold).

2. Appropriateness of Requiring Employer Payment of the Employer Contribution Differential. The policy issue is the appropriateness of the proposed special legislation in requiring the Department of Human Services to pay in a lump sum, akin to the affected member, the differential in contribution amounts between the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional). In the prior service credit transfer mechanisms related to MSRS-Correctional in the past, only the affected employee was required to make the contribution differential payment and the employer obligation was not addressed because the MSRS-Correctional Plan had a considerable contribution sufficiency before 2001. The MSRS-Correctional Plan no longer has a significant contribution sufficiency now or will not have a contribution sufficiency after the scheduled contribution increases under the 2006 Omnibus Retirement bill phase in. The financial condition of MSRS-Correctional now and after the 2006 contribution increases fully phase in is as follows:

MSRS-Correctional				
	2006		After Contribution Phase In	
<u>Membership</u>				
Active Members		3,910		3,910
Service Retirees		1,101		1,101
Disabilitants		168		168
Survivors		106		106
Deferred Retirees		817		817
Nonvested Former Members		388		388
Total Membership		6,490		6,490
<u>Funded Status</u>				
Accrued Liability		\$647,480,269		\$647,480,269
Current Assets		<u>\$535,356,819</u>		<u>\$535,356,819</u>
Unfunded Accrued Liability		\$112,123,450		\$112,123,450
Funding Ratio	82.68%		82.68%	
<u>Financing Requirements</u>				
Covered Payroll		\$162,744,640		\$162,744,640
Benefits Payable		\$26,506,726		\$26,506,726
Normal Cost	17.69%	\$28,786,714	17.69%	\$28,786,714
Administrative Expenses	<u>0.21%</u>	<u>\$341,764</u>	<u>0.21%</u>	<u>\$341,764</u>
Normal Cost & Expense	17.90%	\$29,128,478	17.90%	\$29,128,478
Normal Cost & Expense	17.90%	\$29,128,478	17.90%	\$29,128,478
Amortization	<u>5.44%</u>	<u>\$8,853,309</u>	<u>5.44%</u>	<u>\$8,853,309</u>
Total Requirements	23.34%	\$37,981,787	23.34%	\$37,981,787
Employee Contributions	5.69%	\$9,260,170	8.60%	\$13,996,039
Employer Contributions	7.98%	\$12,987,022	12.10%	\$19,692,101
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>
Total Contributions	13.67%	\$22,247,192	20.70%	\$33,688,140
Total Requirements	23.34%	\$37,981,787	23.34%	\$37,981,787
Total Contributions	<u>13.67%</u>	<u>\$22,247,192</u>	<u>20.70%</u>	<u>\$33,688,140</u>
Deficiency (Surplus)	9.67%	\$15,734,595	2.64%	\$4,293,647

If the Commission is unwilling to require the Department of Human Services to bear an immediate cost impact from the decision to transfer past service credit to the MSRS-Correctional Plan, **Amendment H2363-1A** would eliminate this employer contribution differential funding requirement.

3. Appropriateness of Requiring an Additional Employer Amortization Contribution in Connection with Prior Service Credit Transfers. The policy issue is similar to the policy issue raised above and is the appropriateness of requiring the amortization of any unfunded actuarial accrued liability attributable to a service credit transfer to the MSRS-Correctional Plan by the Department of Human Services over a five-year period. As indicated in the second policy issue, the inclusion of additional MSRS-Correctional Plan members and the transfer of past service credit to the MSRS-Correctional Plan in the past did not trigger a concern about additional employing unit funding because the plan was historically well funded and had an historic contribution sufficiency. Now that the plan is no longer well funded and no longer has a contribution sufficiency, it seems prudent to require that the plan be funded on a more current basis and that the respective employing units should bear a fair share of the cost of membership expansions and past service credit transfers. If the Commission does not believe that the five-year amortization period for this special unfunded actuarial accrued liability is the correct period over which to retire this additional obligation, **Amendment H2363-2A** would change the period to a length of years to be specified. If the Commission does not desire to impose an additional funding requirement on the Department of Human Services with respect to this service credit transfer, **Amendment H2363-3A** eliminates the requirement.

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-employment educational attainment of correctional personnel

to match their upgraded job responsibilities, and to reduce the amount of contraband that was then entering correctional facilities from correctional employees. The initial active membership of the plan on July 1, 1973, was 677.

3. 1974 Membership Expansion of the MSRS-Correctional Retirement Plan. The initial expansion for the MSRS-Correctional Retirement Plan occurred in 1974 (Laws 1974, Chapter 520). Following Interim hearings by the Legislative Retirement Study Commission (renamed in 1975 the Legislative Commission on Pensions and Retirement) at the St. Cloud Reformatory and otherwise, the Legislature authorized an expansion in the plan membership to include special teachers, trades personnel, and maintenance personnel at the Minnesota Correctional Facility-Stillwater, the Minnesota Correctional Facility-St. Cloud, and the Minnesota Correctional Facility-Shakopee. The special teachers, trades personnel, and maintenance personnel transferred to coverage by the MSRS-Correctional Retirement Plan were those certified by the then newly created Commissioner of Personnel (now Commissioner of Employee Relations) as being regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates. Credit for past applicable correctional employment, including employment as a special schools counselor or a shop instructor, was transferred to the MSRS-Correctional Retirement Plan. For correctional teachers covered by TRA, a transfer of past member, employer regular, and employer additional contributions from TRA accompanied the service credit transfer. The Commission hearings leading to the 1974 expansion focused primarily on the safety hazards reportedly suffered by these State employees from inmates and the public safety-related rationale of the need to maintain a particularly vigorous workforce through emphasizing an early age normal retirement. The 1974 expansion of the plan increased its active membership by 60, to 737.
4. 1975-1978 MSRS-Correctional Retirement Plan Coverage Changes. In 1975 (Laws 1975, Chapter 230, Section 1), following complaints from correctional personnel facing imminent early retirement, the mandatory retirement age for MSRS-Correctional Plan active members was modified by making it a conditional mandatory retirement age through age 65, with annual extensions beyond the mandatory age if a medical examination supports the extension. The amendment reflected considerable disgruntlement by MSRS-Correctional Plan active members approaching the mandatory retirement age because the 1974 recession considerably reduced the second career employment prospects of the early retirees, especially when those members believed that they retained a physical capacity to continue to perform the employment position responsibilities.

Also in 1975 (Laws 1975, Chapter 368, Section 35), allowable service credit for prior State employment at a correctional facility as a farmer or a farmer manager by an MSRS-Correctional Plan active member on July 1, 1973, was transferred to the plan. Special teachers previously covered by the TRA Basic program had a TRA Basic program retirement annuity amount set as a floor benefit amount.

In 1978 (Laws 1978, Chapter 781, Section 2), institution educational administrators and institution educational supervisors at correctional facilities were included in the MSRS-Correctional Plan membership.

5. 1980 Addition of MSRS-Correctional Plan Covered Position Administrative Certification Process. In 1980 (Laws 1980, Chapter 600, Sections 2 through 5), coverage by the MSRS-Correctional Plan was classified as applicable only to employees in adult correctional facilities, and post-June 1, 1980, employment as a special teacher, a tradesperson, or a maintenance person at the Minnesota Correctional Facility-Lino Lakes was included in MSRS-Correctional Plan coverage. Additionally, special authority was enacted for the Commissioner of Personnel (also renamed Employee Relations in 1980), upon the recommendation of the Commissioner of Corrections or the recommendation of the Commissioner of Public Welfare (subsequently renamed Human Services), whichever applies, the notification of and receipt of comments from the Legislative Commission on Pensions and Retirement, and the approval of the Legislative Advisory Committee, to certify additional civil service classifications in adult correctional facilities or in the Minnesota Security Hospital as covered by the MSRS-Correctional Retirement Plan. The provision was codified as Minnesota Statutes, Section 352.91, Subdivision 4. The provision was intended to allow for plan expansions between legislative sessions when there was an urgency to do so.
6. 1981-1987 MSRS-Correctional Retirement Plan Coverage Changes. In 1981 (Laws 1981, Chapter 297, Sections 3 and 4), service credit for pre-1981 State employment as a security guard by an MSRS-Correctional Plan member was transferred to the MSRS-Correctional Plan, with the payment of an additional contribution amount.

In 1986 (Laws 1986, Chapter 458, Sections 31 and 32), service credit for correctional employment rendered between 1973 and 1980, that was excluded from MSRS-Correctional Plan coverage because

the person was age 45 or older upon hiring were given the option to elect MSRS-Correctional Plan coverage with the payment of an additional contribution amount.

In 1987 (Laws 1987, Chapter 372, Article 1, Section 4), the 1980 administrative certification process for additional MSRS-Correctional Retirement Plan active members was amended to require both the Commissioner of Corrections and the Commissioner of Human Services to establish written criteria for basing a recommendation on certifying additional positions for MSRS-Correctional Retirement Plan membership to the Commissioner of Employee Relations.

7. 1980s MSRS-Correctional Plan Administrative Transfers. Before 1998, several transfers of retirement coverage to the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) were approved by the Commissioner of Employee Relations and implemented by MSRS without the receipt of Legislative Commission on Pensions and Retirement comments as required by Minnesota Statutes 1998, Section 352.91, Subdivision 4. Some or all of these past coverage changes may have been implemented without Legislative Advisory Commission approval also. Although the requested information was not gathered in a timely fashion, the Commission staff was provided with information for at least 48 recent retirement coverage transfers under Minnesota Statutes 1998, Section 352.91, Subdivision 4, that occurred without explicit Commission comment. The 48 transfers involved 19 employment classifications in six correctional facilities and two Department of Human Services' facilities.
8. 1996 MSRS-Correctional Retirement Plan Coverage Expansion. In 1996 (Laws 1996, Chapter 408, Article 8, Sections 10-17), various positions providing service at a correctional facility or the state security hospital were made newly eligible for Correctional Plan coverage, providing the employee has at least 75 percent inmate or patient contact. The groups added to the MSRS-Correctional Retirement Plan coverage were in 31 job classifications, as follows:

Special Teacher in Juvenile Facilities	Dentist
Registered Nurse Senior	Electrician Supervisor
Registered Nurse	General Repair Worker
Registered Nurse-Principal	Library/Information Research Services Specialist
Licensed Practical Nurse 2	Plumber Supervisor
Baker	Psychologist 3
Chemical Dependency Counselor Supervisor	Recreation Therapist
Chief Cook	Recreation Therapist Coordinator
Cook	Recreation Program Assistant
Cook Coordinator	Recreation Therapist Senior
Corrections Behavior Therapist	Stores Clerk Senior
Corrections Behavior Therapist Specialist	Water Treatment Plant Operator
Corrections Parent Education Coordinator	Work Therapy Technician
Corrections Security Caseworker	Work Therapy Assistant
Corrections Security Caseworker Career	Work Therapy Program Coordinator
Corrections Teaching Assistant	

Incumbents in the State employment positions that were newly included in plan coverage were permitted to waive the coverage change and retain their prior coverage and incumbents were permitted to transfer any prior applicable State employment with the payment of an additional contribution amount. The MSRS-Correctional Plan member and employer contribution rates were increased to cover the cost of the coverage expansion. The transfer involved 54 special teachers, 70 nurses, and 277 other classifications of State employees. By July 1, 1996, the plan active membership had increased to 2,264.

9. 1997 MSRS-Correctional Retirement Plan Coverage Changes. In 1997 (Laws 1997, Chapter 239, Article 9, Sections 40 and 41; Laws 1997, Chapter 241, Article 11), certain individuals at the Minnesota sexual psychopathic personality treatment center and individuals in certain employment classifications at the Minnesota correctional facility at Red Wing (auto mechanic lead, electrician, electrician master of record, groundskeeper intermediate, or plumber master) were added to an uncoded 1996 coverage election law authorizing a prospective coverage by the MSRS-Correctional Plan rather than continued MSRS-General coverage, with the deadline for making an election set at December 31, 1997. The individuals who transferred prospective coverage to MSRS-Correctional were authorized to elect to transfer prior state service if that service would have been eligible for current MSRS-Correctional coverage, with a deadline of December 31, 1997.
10. Post-1996 Administrative Transfers to the MSRS-Correctional Plan. Under the 1980 administrative transfer provision, Minnesota Statutes 1998, Section 352.91, Subdivision 4, the Commission considered requests for the transfer of State employees to the MSRS-Correctional Retirement Plan on three instances – June 1998, June 1999, and December 1999. The June 1998 transfer request

involved seven employees in five employment positions in four correctional facilities. The June 1999 transfer request involved a ratification of prior transfers of 51 employees in 20 employment positions in six correctional facilities and two Department of Human Services facilities and a transfer request that involved 39 employees in 10 employment positions and that involved 13 employment positions without incumbents in eight Department of Corrections facilities and two Department of Human Services facilities. The December 1999 transfer request involved 40 employees in 11 employment positions and one employment position without incumbents in eight Department of Corrections' facilities and two Department of Human Services' facilities. Except for the prospective transfers contained in the June 1999 transfer request, the Legislative Advisory Committee approved the transfers.

11. 1999 MSRS-Correctional Retirement Plan Coverage Changes. In 1999 (Laws 1999, Chapter 222, Article 13), nine positions in the Minnesota Extended Treatment Options Program (METO), located at the Cambridge Regional Treatment Center and operated by the Department of Human Services, were included in MSRS-Correctional Retirement Plan coverage if the positions are certified by the Commissioner of Human Services as having at least 75 percent direct patient contact. The Minnesota Extended Treatment Options Program is a statewide program for adults who have developmental disabilities and who exhibit severe behaviors that present a risk to public safety. The nine job classifications added to MSRS-Correctional Retirement Plan coverage were as follows:

- Behavior Analyst
- Human Services Support Specialist
- Mental Retardation Residential Program Lead
- Psychologist 2
- Recreation Therapist Senior
- Registered Nurse
- Skills Development Specialist
- Social Worker Senior

Individuals who gained prospective MSRS-Correctional Plan coverage were allowed to elect to transfer past METO service to MSRS-Correctional, back to July 1, 1997, providing that the service was in one of the specified positions and the 75 percent inmate contact requirement was met. To transfer past service coverage, the employee was required to pay the difference between the employee contribution paid to MSRS-General and the employee contribution that would have been paid to MSRS-Correctional, if coverage by that plan had been provided during that time period, plus six percent interest. If payment was made by the member, MSRS was required to transfer from MSRS-General to MSRS-Correctional the funded portion of the benefit that accrued during that period. The transfer involved 115 State employees, including 90 Human Services Support Specialists. The 1999 METO transfer also involved the transfer of several part-time employees to MSRS-Correctional Retirement Plan coverage, which was perhaps the first large-scale introduction of part-time employees into Minnesota public safety retirement plan coverage.

12. 2000 MSRS-Correctional Retirement Plan Coverage Changes. In 2000 (Laws 2000, Chapter 461, Article 6, Sections 1 to 4 and 6), several positions in the Department of Corrections and the Department of Human Services were included in the MSRS-Correctional Retirement Plan if the applicable Commissioner certified that at least 75 percent of the employee's working time was spent in direct inmate or patient contact. The applicable positions were as follows:

- (a) registered nurse practitioner at a correctional facility or at the Minnesota Security Hospital;
- (b) behavior analyst 2, licensed practical nurse 1, office and administrative specialist senior, psychologist 2, social worker specialist, behavior analyst 3, and social worker senior at the Minnesota Security Hospital or the Minnesota Sexual Psychopathic Personality Treatment Center;
- (c) corrections discipline unit supervisor at Minnesota correctional facilities at Lino Lakes, Oak Park Heights, and St. Cloud;
- (d) dental assistant registered, at Minnesota correctional facilities at Faribault, Lino Lakes, Moose Lake, Oak Park Heights, and Red Wing;
- (e) dental hygienist, at the Minnesota correctional facility at Shakopee;
- (f) psychologist 2, at the correctional facility at Faribault, Lino Lakes, Moose Lake, Oak Park Heights, Red Wing, St. Cloud, Shakopee, and Stillwater;
- (g) the sentencing-to-service crew chief leader involved with the inmate community work crew program at Faribault and Lino Lakes; and
- (h) director and assistant group supervisor of the former Phoenix/Pomiga treatment/behavioral change program at the Minnesota Correctional facility at St. Cloud.

Individuals who newly gained MSRS-Correctional Retirement Plan coverage were permitted to have comparable past service, if continuous and if performed after June 20, 1975, transferred to MSRS-Correctional. To transfer the past service credit, the individuals were required to have paid in a lump sum by June 30, 2002, the difference for the applicable period between the MSRS-Correctional employee contribution and the employee contributions paid to MSRS-General, plus six percent interest. Upon payment, assets equal to the individual's present value of benefits in MSRS-General were required to be transferred to MSRS-Correctional. The Department of Corrections and the Department of Human Services must cover the expense of computing the proper transfer amounts. The transferred positions were the various Department of Corrections and Department of Human Services employees who were recommended for administrative transfer during 1999, who were formally reviewed by the Legislative Commission on Pensions and Retirement in December 1999, but who were not subsequently approved by the Legislative Advisory Commission.

Additionally, Minnesota Statutes 1998, Section 352.94, Subdivision 4, which previously provided an administrative process for adding additional positions to the MSRS-Correctional Retirement Plan based on recommendations from the Commissioner of Human Services or Corrections, a review by the Legislative Commission on Pensions and Retirement, and approval by the Legislative Advisory Committee, was repealed.

13. 2003-2004 Interim Review of MSRS-Correctional Coverage Provisions. During the 2003-2004 Interim, the Commission staff made a detailed specific comparison of every employment position reported by MSRS as a member of MSRS-Correctional with the governing statutory provisions, indicated that there is a disparity between the MSRS-Correctional Plan membership eligibility provisions and the various Department of Corrections and Department of Human Services occupational positions then reported by MSRS as covered by the plan. The Commission staff analysis identified approximately five percent of the reported MSRS-Correctional Retirement Plan membership who lacked a clear statutory basis for inclusion in the plan. The problematic MSRS-Correctional Plan inclusions occurred where information on the employment position or employing facility was lacking, where there was no specific statutory inclusion authority, where there was ambiguous or unclear statutory authority for inclusion, where coverage authority for some employment positions was lacking for the Minnesota Sex Offender Program, where covered personnel were employed at a non-correctional/non-security facility, where reported job titles were incorrect, or where occupational titles have changed without statutory correction. The 2003-2004 Interim project resulted in the preparation of corrective legislation in 2004, which was not heard by the Commission due to opposition by affected employee organizations.
14. 2004 MSRS-Correctional Retirement Plan Coverage Changes. In 2004 (Laws 2004, Chapter 267, Article 1, Section 1), three additional positions in the Department of Corrections were included in the MSRS-Correctional Retirement Plan if the Commissioner of Corrections certified that at least 75 percent of the employee's working time was spent in direct inmate or patient contact. The positions were:
 - (a) corrections discipline unit supervisor at the Minnesota Correctional Facility-Rush City;
 - (b) dental hygienist at the Minnesota Correctional Facility-Rush City; and
 - (c) psychologist 2 at the Minnesota Correctional Facility-Rush City.

No transfer to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) of any past service credit related to past employment in the affected position and covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) was permitted in the 2004 legislation, which resulted from a House Governmental Operations and Veterans Affairs Policy Committee amendment to the 2004 Omnibus Retirement Bill.

15. 2005 MSRS-Correctional Retirement Plan Coverage Transfer Request Process. In 2005 (First Special Session Laws 2005, Chapter 8, Article 4, Section 3), the Department of Corrections and the Department of Human Services were required to establish a procedure for recommending positions for Correctional Plan coverage, and for determining positions no longer qualified for inclusion under that plan. The evaluation must consider the extent of working time spent in direct contact with patients or inmates, the extent of the physical hazard, and the extent of intervention routinely expected by the employee in a facility incident. Positions may be recommended for inclusion if the individual routinely spends 75 percent of the employee's time in direct inmate contact and is regularly engaged in rehabilitation, treatment, custody, or supervision of inmates or patients. Any recommendations must be in the form of proposed legislation and be forwarded to the Chair of the Legislative Commission on Pensions and Retirement, the Executive Director of the Legislative Commission on Pensions and Retirement, the Chair of the House Government Operations and Veterans Affairs Policy Committee, and the Chair of the Senate Government Operations Committee. The recommendations must be received by January 15 to be considered during the upcoming Legislative Session. In the initial set of recommendations under the 2005 transfer request procedure,

the Department of Corrections recommended the transfer of 11 positions, involving 36 employees, and the Department of Human Services recommended the transfer of 13 positions, involving 75 employees.

16. 2006 MSRS-Correctional Retirement Plan Coverage Changes. In 2006 (Laws 2006, Chapter 271, Article 2, Sections 2 through 12) 22 additional employment positions within the Department of Corrections or the Department of Human Services were added to Correctional Plan coverage. The corrections officer inclusion provision was updated to correct a reference to the Minnesota Sex Offender Program, to revise the correctional lieutenant title, and to add corrections canine officers. The maintenance and trades coverage provision was revised to add specific correctional industry personnel with a plan qualification requirement that 75 percent of the employee's working time be spent in inmate/patient contact. The nursing personnel inclusion provision was updated to correct the registered nurse advance practice title. The "other" correctional personnel inclusion provision was updated to correct title references for central services administrative specialist, intermediate, central services administrative specialists, principal, corrections program therapists 1, 2, and 3, and work therapy technician, and to add the positions of chaplain, corrections inmate program coordinator, corrections transition program coordinator, delivery van driver, general maintenance worker, laundry coordinator, library technician, psychologist 1, and sports medicine specialist. The Minnesota Extended Treatment Options Program covered personnel provision was expanded by adding the positions of behavior analysts 2 and 3, group supervisor, group supervisor assistant, social worker specialists, and speech pathology specialist. The Department Human Services covered personnel provision was expanded by adding the positions of behavior analyst 3, client advocate, dental assistant registered, group supervisor, group supervisor assistant, licensed practical nurse 1, occupational therapist, occupational therapist senior, skills development specialist, social worker specialist, social worker specialist senior, and speech pathology clinician, chemical dependency counselor senior, psychologist 1, psychologist 3, recreation program assistant, recreation therapist senior, rehabilitation counselor senior, work therapy assistant, and work therapy program coordinator. The Department of Corrections coverage provision was amended to make the positions of correctional discipline unit supervisor, dental assistant registered, dental hygienist, psychologist 2, and sentencing-to-service crew leader involved with the inmate community work crew program eligible for plan coverage, with 75 percent inmate contact, at all facilities. A procedure for retaining coverage following an occupational position name change and a procedure for retaining coverage following the transfer of personnel to a newly established correctional facility were established. The Department of Corrections procedure for recommending coverage changes was also codified. Past service credit was transferred for the laundry coordinators and delivery van drivers at the Minnesota Correctional Facility-Faribault and for the corrections discipline unit supervisor, dental hygienist, and psychologist 2 positions at the Minnesota Correctional Facility-Rush City.
17. Attraction of MSRS-Correctional Plan Membership and Transfer Demands. The attraction of the MSRS-Correctional Plan for groups seeking this coverage is that the plan pays higher benefits than a general employee plan and has an earlier normal retirement age. Because of the better benefits and earlier retirement age, the plan is more costly than a regular employee plan. The plan offers a hybrid of general employee plan and public safety plan features. MSRS-Correctional Plan members are coordinated members, unlike Public Employees Retirement Association Police and Fire Plan (PERA-P&F) members. Like a public safety plan, members can retire without a reduction for early retirement at age 55 or with a reduction at age 50. This annuity is computed using a 2.4 percent yearly service benefit accrual factor. Duty-related disability benefits are generous, typical of a public safety plan. The duty-related disability receives 50 percent of high five average salary, plus 2.4 percent of high five average salary for each year in excess of 20 years of allowable service. Also like a public safety plan, the MSRS-Correctional Plan uses an occupational definition of disability rather than the total impairment disability definition used by the MSRS-General Plan.

The premise for coverage by the MSRS-Correctional Plan is that certain employment positions in correctional or analogous security hospital or psychopathic personality treatment center service are sufficiently hazardous and there is sufficient need for a particularly vigorous workforce in these specific positions to warrant a separate plan with larger retirement benefits payable at an earlier normal retirement age.

Historically, about 85 percent of MSRS-Correctional Plan members are employees of the Department of Corrections and about 15 percent of MSRS-Correctional Plan members are employees of the Department of Human Services. The correctional facilities with the largest numbers of MSRS-Correctional Plan members are MCF-Stillwater, MCF-Lino Lakes, MCF-St. Cloud, and MCF-Faribault. The plan currently has 3,249 members in approximately 100 employment classifications. Correctional officers comprise the largest single occupational group covered by the plan.

- 1.1 moves to amend H.F. No. 2363; S.F. No. 2020, as follows:
- 1.2 Page 2, delete lines 22 to 36
- 1.3 Page 3, line 1, delete "4" and insert "3"
- 1.4 Page 3, line 11, delete "5" and insert "4"
- 1.5 Page 3, line 16, delete "6" and insert "5"
- 1.6 Page 3, line 28, delete ", by" and insert "and by"
- 1.7 Page 3, line 29, delete ", and by the amount of the"
- 1.8 Page 3, line 30, delete "employer contribution equivalent payment under subdivision
- 1.9 3"
- 1.10 Page 3, line 33, delete "7" and insert "6"

1.1 moves to amend H.F. No. 2363; S.F. No. 2020, as follows:

1.2 Page 3, line 22, delete "one-fifth" and insert "....."

- 1.1 moves to amend H.F. No. 2363; S.F. No. 2020, as follows:
- 1.2 Page 3, delete lines 16 to 32
- 1.3 Page 3, line 33, delete "7" and insert "6"

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE NO. 2363

March 26, 2007

Authored by Murphy, M., by request

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; correctional state employees retirement plan of the
1.3 Minnesota State Retirement System; authorizing certain Department of Human
1.4 Services employees transferred to plan coverage in 2006 to make back equivalent
1.5 member contributions and transfer pension service credit.

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

1.7 Section 1. **TRANSFER OF PRIOR MSRS-GENERAL SERVICE CREDIT FOR**
1.8 **CERTAIN EMPLOYEES WITH TRANSFERRED RETIREMENT COVERAGE.**

1.9 Subdivision 1. Election to transfer prior MSRS-general service credit. (a) An
1.10 eligible employee described in paragraph (b) may elect to transfer service credit in the
1.11 general state employees retirement plan of the Minnesota State Retirement System to the
1.12 correctional state employees retirement plan for eligible prior correctional employment.

1.13 (b) An eligible employee is a person who:

1.14 (1) became an employee of the state of Minnesota in October 2002;

1.15 (2) is employed as a psychologist 1 by the Department of Human Services in the
1.16 Minnesota sex offender program at the Moose Lake facility; and

1.17 (3) became eligible for retirement coverage by the correctional state employees
1.18 retirement plan of the Minnesota State Retirement System under Laws 2006, chapter
1.19 271, article 2, section 7.

1.20 (c) Eligible prior correctional employment is employment with the Department
1.21 of Human Services in the Minnesota sex offender program that preceded the effective
1.22 date of the retirement coverage transfer under Laws 2006, chapter 271, article 2, section
1.23 7, is continuous service, and is certified by the commissioner of human services and
1.24 the commissioner of employee relations to the executive director of the Minnesota
1.25 State Retirement System as service that would qualify for correctional state employees

2.1 retirement plan coverage under Minnesota Statutes, section 352.91, if the service was
2.2 rendered after July 1, 2006.

2.3 (d) The election to transfer past service credit under this section must be made
2.4 in writing by the applicable person on a form prescribed by the executive director of
2.5 the Minnesota State Retirement System and must be filed with the executive director of
2.6 the Minnesota State Retirement System on or before January 1, 2008, or the date of the
2.7 eligible employee's termination of state employment, whichever is earlier.

2.8 Subd. 2. **Payment of additional equivalent member contributions.** (a) An
2.9 eligible employee who elects to transfer past service credit under this section must pay
2.10 an additional member contribution for that prior service period. The additional member
2.11 contribution is the difference between the member contribution rate or rates for the
2.12 general state employees retirement plan of the Minnesota State Retirement System for
2.13 the period of employment covered by the service credit to be transferred and the member
2.14 contribution rate or rates for the correctional state employees retirement plan for the period
2.15 of employment covered by the service credit to be transferred, plus annual compound
2.16 interest at the rate of 8.5 percent.

2.17 (b) The additional equivalent member contribution must be paid in a lump sum.
2.18 Payment must accompany the election to transfer the prior service credit. No transfer
2.19 election or additional equivalent member contribution payment may be made by a person
2.20 or accepted by the executive director after January 1, 2008, or the date on which the
2.21 eligible employee terminates state employment, whichever is earlier.

2.22 Subd. 3. **Payment of additional equivalent employer contributions.** (a) If an
2.23 eligible employee elects to transfer past service credit under this section and pays the
2.24 additional equivalent member contribution amount under subdivision 2, the Department of
2.25 Human Services shall pay an additional equivalent employer contribution amount. The
2.26 additional employer contribution is the difference between the employer contribution rate
2.27 or rates for the general state employees retirement plan for the period of employment
2.28 covered by the service credit to be transferred and the employer contribution rate or
2.29 rates for the correctional state employees retirement plan for the period of employment
2.30 covered by the service credit to be transferred, plus annual compound interest at the
2.31 rate of 8.5 percent.

2.32 (b) The additional equivalent employer contribution must be paid in a lump sum and
2.33 must be paid within 30 days of the date on which the executive director of the Minnesota
2.34 State Retirement System certifies to the Department of Human Services that the employer
2.35 paid the additional equivalent member contribution and the amount of the additional
2.36 equivalent employer contribution.

3.1 Subd. 4. **Transfer of assets.** Assets related to the transferred service credit of an
3.2 eligible employee must be transferred from the general state employees retirement fund
3.3 to the correctional state employees retirement fund in an amount equal to the present
3.4 value of benefits earned under the general state employees retirement plan by the eligible
3.5 employee transferring past service to the correctional state employees retirement plan, as
3.6 determined by the actuary retained under Minnesota Statutes, section 356.214, multiplied
3.7 by the accrued liability funding ratio of the active members of the general state employees
3.8 retirement plan as derived from the most recent actuarial valuation prepared under
3.9 Minnesota Statutes, section 356.215. The transfer of assets must be made within 45 days
3.10 after the coverage transfer election is made.

3.11 Subd. 5. **Effect of the asset transfer.** Upon the transfer of assets under subdivision
3.12 3, the service credit in the general state employees retirement plan of the Minnesota State
3.13 Retirement System is forfeited and may not be reinstated. The transferred service credit
3.14 and the transferred assets must be credited to the correctional state employees retirement
3.15 plan and fund, respectively.

3.16 Subd. 6. **Additional amortization requirement.** (a) In addition to the employer
3.17 contribution required under subdivision 3 and Minnesota Statutes, section 352.92,
3.18 subdivision 2, the Department of Corrections or the Department of Human Services,
3.19 whichever applies, also must make an additional amortization payment annually with
3.20 respect to the unfunded actuarial accrued liability attributable to past service credit
3.21 transfers under this section.

3.22 (b) The additional amortization requirement is one-fifth of the initially determined
3.23 unfunded actuarial accrued liability attributable to the past service credit transfer plus 8.5
3.24 percent annual compound interest on the unfunded actuarial accrued liability remaining
3.25 after the most recent prior principal payment. The unfunded actuarial accrued liability
3.26 attributable to the past service credit transfer is the present value of the benefit obtained
3.27 by the transfer of the service credit to the correctional state employees retirement plan
3.28 reduced by the amount of the asset transfer under subdivision 4, by the amount of the
3.29 member contribution equivalent payment under subdivision 2, and by the amount of the
3.30 employer contribution equivalent payment under subdivision 3.

3.31 (c) The additional amortization requirement is payable annually in a lump sum on
3.32 or before June 30.

3.33 Subd. 7. **Cost of actuarial calculations.** The Department of Human Services shall
3.34 pay the cost of the actuarial calculations required by this section as billed by the executive
3.35 director of the Minnesota State Retirement System.

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