



**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:

<b>MSRS-Correctional</b>				
	<b>2006</b>		<b>After Contribution Phase In</b>	
<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

