



**H.F. 1626**  
(Murphy, M.)

**S.F. 1367**  
(Daley)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* MSRS-Unclassified Program  
*Relevant Provisions of Law:* Minnesota Statutes, Section 353D.02, Subdivision 3  
*General Nature of Proposal:* Clarification of application of transfer to General Plan for employees hired after June 30, 2010  
*Date of Summary:* February 16, 2011

**Specific Proposed Changes**

- Clarifies that it is MSRS-Unclassified employees first employed after June 30, 2010, who are prohibited from transferring to MSRS-General after the first seven years of service, rather than applying the restriction to any existing employee who continues in employment beyond June 30, 2010.

**Policy Issues Raised by the Proposed Legislation**

1. Whether the proposal is a substantive change or a technical clarification. The revision does appear to be a technical revision, clarifying the group which is subject to the seven-year limit.
2. Whether there is need for additional clarification of this provision, beyond that proposed in the bill, to further improve the readability of this provision.

**Potential Amendments**

H1626-1A is a delete-everything amendment which makes the change indicated in the bill, but also makes other technical revisions to the provision to improve readability.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director <sup>EB</sup>  
RE: H.F. 1626 (Murphy, M.); S.F. 1367 (Daley): MSRS-Unclassified; Clarification of MSRS-General Transfer Provision  
DATE: February 16, 2012

Summary of H.F. 1626 (Murphy, M.); S.F. 1367 (Daley)

H.F. 1626 (Murphy, M.); S.F. 1367 (Daley) revises Minnesota Statutes, Section 352D.02, Subdivision 3, the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) transfer to the General State Employees Retirement Plan (MSRS-General) provision, by clarifying that it is employees first employed after June 30, 2010, who are prohibited from transferring to MSRS-General after the first seven years of service, rather than applying that restriction to any existing employee who continues in employment beyond June 30, 2010.

Background Information on Relevant Topics

The following attachment provides background information on topics relevant to the proposed legislation:

- **Attachment A:** Background information on the MSRS-Unclassified Program to MSRS-General Plan transfer provision.

Discussion and Analysis

H.F. 1626 (Murphy, M.); S.F. 1367 (Daley) revises the MSRS-Unclassified Program transfer to the MSRS-General Plan provision by clarifying the application of the provision for employees first hired after June 30, 2010.

The proposed legislation raises the following policy issues for Commission consideration and discussion:

1. Nature of the Change. The issue is whether the proposal is a substantive change or a technical clarification. The revision does appear to be a technical revision, clarifying the group which is subject to the seven-year limit.
2. Possible Need for Further Clarification of the Provision. The issue is whether there is need for additional clarification of this provision, beyond that proposed in H.F. 1626 (Murphy, M.); S.F. 1367 (Daley), to further improve the readability of this provision.

Potential Technical Amendment

**H1626-1A** is a delete-everything amendment which makes the change indicated in the bill, but also makes other technical revisions to the provision to improve readability.

## **Background Information on the MSRS-Unclassified Program Transfer to MSRS-General Plan Provision**

The Unclassified State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Unclassified) transfer to General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) provision, Minnesota Statutes Section 352D.02, Subdivision 3, was most recently revised in the 2010 Session. Prior to those changes, an employee with MSRS-Unclassified Program coverage, who has at least ten years of credited service in the MSRS-Unclassified Program or in combination with service covered by other MSRS plans, could elect to transfer out of the Unclassified-Program (a defined contribution program) and into MSRS-General (a defined benefit plan). In a change requested by Dave Bergstrom, Executive Director, Minnesota State Retirement System, the Legislature revised the treatment for new employees. The revision is found in Laws 2010, Chapter 359, Article 4, Section 7. If an employee is hired after June 30, 2010, eligibility to transfer to MSRS-General ends once the individual has acquired at least seven years of service.

The 2010 revisions also clarified in the language of the law how MSRS has long interpreted the application of the provision to legislators, elected state officers, and judges. These three groups are not permitted to transfer to MSRS-General, regardless of length of service.

Regarding judges, most individuals who become judges do so relatively late in their careers. To permit a retirement benefit deemed reasonable to be generated, the Judges Plan, a defined benefit plan, has a high service accrual rate. However, when an individual becomes a judge relatively early and provides long service, that accrual rate could lead to an annuity that is a very high portion of salary. The plan has long had limits to cap benefit accrual. In 2000, the previous benefit maximum (70 percent of annual salary in the year immediately preceding retirement) was converted to a length of service maximum (24 years of service). If a judge continued in employment beyond 24 years, no further employee contributions or service accrual was permitted in the Judges Plan. Instead, an account is created in the MSRS-Unclassified Program for the judge, funded by employee contributions. Given this apparent intention of limiting further participation in a defined benefit plan, it would be inconsistent with that policy to permit a long-service judge to opt out of the MSRS-Unclassified Program and enter MSRS-General, another defined benefit plan.

Regarding legislators and elected state officers, the Legislature decided in 1997 that defined contribution coverage, rather than defined benefit coverage, was appropriate for elected officials. In 1997, as part of major benefit increase legislation assembled by MSRS, the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA), retirement coverage for all newly elected legislators and for sitting legislators who elected to change coverage was provided by MSRS-Unclassified. A comparable change was made for state constitutional officers. The legislation (Laws 1997, Ch. 233, Art. 2) also added Social Security coverage for legislators and constitutional officers and included a required study by the Legislative Commission on Pensions and Retirement of the appropriateness of the coverage change (see Laws 1997, Ch. 233, Art. 2, Sec. 16.) The Commission completed the mandated study during the 1997-1998 Interim and concluded that the change was appropriate and recommended no change in the 1997 coverage change.

## Laws 2010, Chapter 359, Article 4, Section 7

Sec. 7. Minnesota Statutes 2008, section 352D.02, subdivision 3, is amended to read:

Subd. 3. **Transfer to general employees retirement plan.** (a) An employee referred to in subdivision 1, paragraph (c), clauses (2) to (4), (6) to (14), and (16) to (18), who is credited with employee shares in the unclassified program, after acquiring and who has credit for ten years of allowable service and, not later than one month following the termination of covered employment, may elect to terminate participation in the unclassified program and be covered by the general employees retirement plan by filing a written election with the executive director- if the employee was employed before July 1, 2010, and has at least ten years of allowable service as of the date of the election or if the employee was employed after June 30, 2010, and has no more than seven years of allowable service as of the date of the election.

(b) If the transfer election is made, the executive director shall then redeem the employee's total shares and shall credit to the employee's account in the general employees retirement plan the amount of contributions that would have been so credited had the employee been covered by the general employees retirement plan during the employee's entire covered employment or elective state service. The balance of money so redeemed and not credited to the employee's account shall must be transferred to the general employees retirement plan retirement fund, except that (1) the employee contribution paid to the unclassified program must be compared to (2) the employee contributions that would have been paid to the general employees retirement plan for the comparable period, if the individual had been covered by that plan. If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general employees retirement plan coverage or before the effective date of the annuity, whichever is sooner.

(~~b~~) (c) An election under paragraph (a) to transfer coverage to the general employees retirement plan is irrevocable during any period of covered employment.

(d) A person referenced in subdivision 1, paragraph (c), clause (1), (5), or (15), who is credited with employee shares in the unclassified program is not permitted to terminate participation in the unclassified program and be covered by the general employees retirement plan.

**EFFECTIVE DATE.** This section is effective June 30, 2010.

1.1 ..... moves to amend H.F. No. 1626; S.F. No. 1367 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2010, section 352D.02, subdivision 3, is amended to  
1.4 read:

1.5 Subd. 3. **Transfer to general employees retirement plan.** (a) If permitted under  
1.6 paragraph (b), an employee referred to in subdivision 1, paragraph (c), clauses (2) to (4),  
1.7 (6) to (14), and (16) to (18), who is credited with shares in the unclassified program, and  
1.8 ~~who has credit for allowable service, not later than one month following the termination~~  
1.9 ~~of covered employment,~~ may elect to terminate participation in the unclassified program  
1.10 and be covered by the general employees retirement plan ~~by filing a written election~~  
1.11 ~~with the executive director.~~

1.12 (b) An employee specified in paragraph (a) is permitted to terminate participation  
1.13 in the unclassified program and be covered by the general employees retirement plan if  
1.14 the employee:

1.15 (1) was employed before July 1, 2010, and has at least ten years of allowable service  
1.16 ~~as of the date of the election;~~ or if the employee

1.17 (2) was first employed after June 30, 2010, and has no more than seven years of  
1.18 allowable service ~~as of the date of the election.~~

1.19 The election must be in writing on a form provided by the executive director, and  
1.20 can be made no later than one month following the termination of covered employment.

1.21 ~~(b)~~ (c) If the transfer election is made, the executive director shall ~~then~~ redeem the  
1.22 employee's total shares and shall credit to the employee's account in the general employees  
1.23 retirement plan the amount of contributions that would have been ~~so~~ credited had the  
1.24 employee been covered by the general employees retirement plan during the employee's  
1.25 entire covered employment ~~or elective state service.~~ The balance of money ~~so~~ redeemed  
1.26 and not credited to the employee's account must be transferred to the general employees  
1.27 retirement plan, except that the executive director must determine:

2.1 (1) the employee ~~contribution~~ contributions paid to the unclassified program ~~must be~~  
2.2 ~~compared to;~~ and

2.3 (2) the employee contributions that would have been paid to the general employees  
2.4 retirement plan for the comparable period, if the individual had been covered by that plan.

2.5 If clause (1) is greater than clause (2); the difference must be refunded to the  
2.6 employee as provided in section 352.22. If clause (2) is greater than clause (1), the  
2.7 difference must be paid by the employee within six months of electing general employees  
2.8 retirement plan coverage or before the effective date of the annuity, whichever is sooner.

2.9 ~~(e)~~ (d) An election under paragraph ~~(a)~~ (b) to transfer coverage to the general  
2.10 employees retirement plan is irrevocable during any period of covered employment.

2.11 ~~(d)~~ (e) A person referenced in subdivision 1, paragraph (c), clause (1), (5), or  
2.12 (15), who is credited with employee shares in the unclassified program is not permitted  
2.13 to terminate participation in the unclassified program and be covered by the general  
2.14 employees retirement plan.

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

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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SEVENTH  
SESSION**

**HOUSE FILE No. 1626**

May 2, 2011

Authored by Murphy, M.

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act  
1.2 relating to retirement; unclassified employees retirement program; clarifying  
1.3 transfer of coverage provision; amending Minnesota Statutes 2010, section  
1.4 352D.02, subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2010, section 352D.02, subdivision 3, is amended to  
1.7 read:

1.8 **Subd. 3. Transfer to general employees retirement plan.** (a) An employee  
1.9 referred to in subdivision 1, paragraph (c), clauses (2) to (4), (6) to (14), and (16) to (18),  
1.10 who is credited with shares in the unclassified program, and who has credit for allowable  
1.11 service, not later than one month following the termination of covered employment, may  
1.12 elect to terminate participation in the unclassified program and be covered by the general  
1.13 employees retirement plan by filing a written election with the executive director if the  
1.14 employee was employed before July 1, 2010, and has at least ten years of allowable  
1.15 service as of the date of the election or if the employee was first employed after June 30,  
1.16 2010, and has no more than seven years of allowable service as of the date of the election.

1.17 (b) If the transfer election is made, the executive director shall then redeem the  
1.18 employee's total shares and shall credit to the employee's account in the general employees  
1.19 retirement plan the amount of contributions that would have been so credited had the  
1.20 employee been covered by the general employees retirement plan during the employee's  
1.21 entire covered employment or elective state service. The balance of money so redeemed  
1.22 and not credited to the employee's account must be transferred to the general employees  
1.23 retirement plan, except that (1) the employee contribution paid to the unclassified program  
1.24 must be compared to (2) the employee contributions that would have been paid to the

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2.1 general employees retirement plan for the comparable period, if the individual had been  
2.2 covered by that plan. If clause (1) is greater than clause (2), the difference must be  
2.3 refunded to the employee as provided in section 352.22. If clause (2) is greater than  
2.4 clause (1), the difference must be paid by the employee within six months of electing  
2.5 general employees retirement plan coverage or before the effective date of the annuity,  
2.6 whichever is sooner.

2.7 (c) An election under paragraph (a) to transfer coverage to the general employees  
2.8 retirement plan is irrevocable during any period of covered employment.

2.9 (d) A person referenced in subdivision 1, paragraph (c), clause (1), (5), or (15), who  
2.10 is credited with employee shares in the unclassified program is not permitted to terminate  
2.11 participation in the unclassified program and be covered by the general employees  
2.12 retirement plan.

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