



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director **EB**
RE: Summary of 2007 Legislative Session Pension Legislation
DATE: August 10, 2007

This memo summarizes the 2007 Legislative Session pension provisions. Nearly all of the pension provisions passed in the Omnibus Retirement Bill, S.F. 430 (Betzold); H.F. 1978 (Murphy, M.), enacted as Laws 2007, Ch. 134, but a few pension provisions appeared in other bills. The Legislature also passed a few provisions tangentially related to public pensions, such as lump sum payments to induce early retirement and retiree health care provisions.

The first major section, Fund-Specific Legislation, summarizes all pension-related legislation for individual plans and for plans of a specific category, such as the first class city teacher plans, local police and paid fire plans, or volunteer fire plans. This section includes several conforming changes relating to the merger of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA). Since the MTRFA no longer exists, these changes are generally noted under the TRA portion of this section. The second major section, General Pension Provisions, summarizes pension legislation applying to all public plans or to miscellaneous plan groupings. The third major section, Miscellaneous Provisions, mentions legislation which is not related directly to pension plan law but which is of interest to Legislative Commission on Pensions and Retirement members and public sector retirees.

I. FUND-SPECIFIC LEGISLATION

A. Minnesota State Retirement System (MSRS)

General State Employees Retirement Plan (MSRS-General)

1. Included Employees Provision, Technical Changes. The MSRS included employee provision is revised by removing obsolete references and by clarifying that University of Minnesota employees are in the plan unless they are excluded by action of the Board of Regents. *Laws 2007, Ch. 134, Art. 2, Sec. 2. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
2. Excluded Employees Provision Changes. The MSRS excluded employee provision is revised by more clearly excluding independent contractors regardless of the payment arrangement; by removing obsolete language; by excluding interns from coverage; and by allowing coverage for teachers for incidental employment as a state employee not covered by a teacher retirement association. *Laws 2007, Ch. 134, Art. 2, Sec. 3. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
3. Allowable Service Provisions Changes: Revised Leave Service Credit Purchase Procedures. The MSRS allowable service credit provisions are revised by removing obsolete language relating to pre-1957 service and by creating new service credit payment procedures for leaves. If payment is made within one year, the payment is the sum of the employee and employer contribution amounts, plus monthly interest equivalent to 8.5 percent annual interest. If payment is made after one year, the individual must pay the full actuarial value. *Laws 2007, Ch. 134, Art. 2, Sec. 4-5. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
4. Surviving Spouse Term-Certain Provision Changes. The term-certain annuity for survivors of deceased former employees is revised by eliminating the five-year, term-certain option and by eliminating the requirement that payments not exceed 75 percent of the deceased employee's high-five average salary. *Laws 2007, Ch. 134, Art. 2, Sec. 6. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
5. Military Leave USERRA Provision Generalized. The USERRA (Uniformed Services Employment and Reemployment Rights Act of 1994)-compliant leave of absence provision is revised to clearly apply to all groups governed by Chapter 352 (MSRS-Correctional, MSRS-General, Military Affairs, Transportation Department Pilots, State Fire Marshals). *Laws 2007, Ch. 134, Art. 2, Sec. 7. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*

6. General Law Application Clarification. Section 352.951, Application of General Law, is clarified by stating that Chapter 352 (MSRS) applies to State Fire Marshal employees. *Laws 2007, Ch. 134, Art. 2, Sec. 8. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
7. MSRS-General Membership Authorized for Middle Management Association Employees. Middle Management Association employees who are first employed after July 1, 2007, are MSRS-General members even if they are not former state employees. *Laws 2007, Ch. 134, Art. 11, Sec. 6. Source: H.F. 2078 (Murphy, M.); S.F.1457 (Frederickson)*

Legislators Retirement Plan

1. Correction of Survivor Benefit Accrual Provision. Section 3A.05, the survivor benefit accrual provision, is revised to have the benefit accrue upon application or one year prior to the date of the application, whichever is later rather than whichever is earlier. This change ensures that the benefit can not accrue prior to the date of the qualifying death. *Laws 2007, Ch. 134, Art. 1, Sec. 1. Source: H.F. 1978 (Murphy, M.); S.F. 430 (Betzold)*
2. Revision of Annuity Application Provision. The annuity application provision is revised by removing obsolete or redundant language and by clarifying that an unreduced retirement annuity requires that the annuity commence no earlier than normal retirement age (age 62). *Laws 2007, Ch. 134, Art. 2, Sec. 1. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
3. Revision of Optional Annuity Provision. The optional annuity provision is revised to allow a surviving spouse of a former legislator who dies before age 55 to elect an optional annuity form, in lieu of the plan's automatic surviving spouse benefits, when the former legislator would have reached age 55. The provision is effective retroactively to include a former legislator who died on March 5, 2007. *Laws 2007, Ch. 134, Art. 2, Sec. 2. Source: Betzold Amendment*
4. Optional Division of Retirement Allowance. Notwithstanding a prohibition against payment of a pension benefit representing a division of marital property before the former public employee applies for a pension, a portion of a former legislator's benefit as specified in the decree can be paid to the ex-spouse when the former legislator reaches age 62 (the normal retirement age for the plan), even if the former legislator has not applied for a benefit. When the former legislator does begin drawing benefit, the present value of the benefit paid or payable to the ex-spouse must be deducted from the present value of the benefit payable to the former legislator. The present value calculations must include the impact of the combined service annuity provision, if applicable. The provision is retroactive to decrees rendered after September 2003. *Laws 2007, Ch. 134, Art. 2, Sec. 3. Source: H.F. xxx; S.F. 1762 (Betzold)*

Correctional State Employees Retirement Plan (MSRS-Correctional)

1. Correction of a 2006 Prior Coverage Transfer Provision. A 2006 prior coverage transfer provision is revised to correct a drafting error. *Laws 2007, Ch. 134, Art. 1, Sec. 14. Source: H.F. 1978 (Murphy, M.); S.F. 430 (Betzold)*
2. Correction of a 2006 Payment Due Date Provision. The payment due date in a 2006 Omnibus Retirement Bill is revised. As contained in the original omnibus bill, the required payments would have had to be made prior to the date those payments were authorized. *Laws 2007, Ch. 134, Art. 1, Sec. 15. Source: H.F. 1978 (Murphy, M.); S.F. 430 (Betzold)*
3. Revisions in Department of Corrections Covered Positions. Four Department of Corrections occupational titles (chemical dependency counselor supervisor, general maintenance worker, laundry coordinator, and water treatment plant operator) are removed from plan coverage and two Department of Corrections occupational titles (corrections program therapist 4 and plant maintenance engineer lead) are added to plan coverage. *Laws 2007, Ch. 134, Art. 3, Sec. 1. Source: Source: H.F. 1911 (Murphy, M.); S.F. 937 (Betzold)*
4. Correction of Department of Human Services Covered Position Title. An occupational title for the residential program lead position in the Department of Human Services, Minnesota Extended Treatment Options Program, is corrected. *Laws 2007, Ch. 134, Art. 3, Sec. 2. Source: H.F. 1912 (Murphy, M.); S.F. 423 (Betzold)*
5. Revision in Department of Human Services Covered Positions. One Department of Human Services Security Hospital or Sex Offender Program occupational position (office and

administrative specialist senior) is removed from plan coverage and nine Department of Human Services Security Hospital or Sex Offender Program occupational positions (certified occupational therapy assistant 1, certified occupational therapy assistant 2, customer services specialist principal, human services support specialist, licensed alcohol and drug counselor, management analyst 3, recreation therapist lead, security supervisor, and special education program assistant) are added to plan coverage. *Laws 2007, Ch. 134, Art. 3, Sec. 3. Source: H.F. 1912 (Murphy, M.); S.F. 423 (Betzold)*

6. Department of Corrections Review Committee Must Identify Eligible Past Service. If the Department of Corrections position inclusion review committee recommends a position for the MSRS-Correctional, the committee must also identify eligible past service that should be allowed to transfer. *Laws 2007, Ch. 134, Art. 3, Sec. 4. Source: H.F. 1911 (Murphy, M.); S.F. 937 (Betzold)*
7. Past Service Transfer Requirements. This is a new section specifying procedures to be used when transferring past service from MSRS-General to MSRS-Correctional for positions identified for inclusion under MSRS-Correctional. These procedures will be used for employees transferred to MSRS-Correctional under 2006, 2007, or future legislation. *Laws 2007, Ch. 134, Art. 3, Sec. 5. Source: Amendment to H.F. 1911 (Murphy, M.); S.F. 937 (Betzold); and H.F. 2363 (Murphy, M., by request); S.F. 2020 (Prettner Solon)*
 - If the employee is transferred to MSRS-Correctional before July 1, 2007, the procedure to transfer past service keeps MSRS-General whole but may not fully compensate MSRS-Correctional for the added liabilities. For the applicable past service the member must pay the member contribution rate differential (the difference between the MSRS-General employee contribution that was paid and the employee contribution that would have been made to MSRS-Correctional if that plan had covered that past service), plus 8.5 percent compound interest. If that payment is made, the employer must pay the equivalent employer contribution rate differential, plus 8.5 percent compound interest. In addition to these employee and employer payments, assets will transfer from MSRS-General in an amount equal to the funded portion of the present value of benefits earned for that service in MSRS-General.
 - For transfers that occur on or after July 1, 2007, MSRS-General is left unharmed and MSRS-Correctional is made whole by requiring payment of the full actuarial value. To transfer the past service credit, MSRS will compute the full actuarial value of the service credit transfer in MSRS-Correctional. From this amount, MSRS will subtract the employee and employer payment, with interest, and the asset transfer from MSRS-General, as described above. The remainder, if positive, must be paid to MSRS-Correctional through additional payments to be shared on a 40 percent employee/60 percent employer basis.
8. Special Law Provision: Stores Clerk Past Service Credit Transfer. An individual with service as a stores clerk from 1990 to 1994 at the Minnesota Correctional Facility-St. Cloud is authorized to transfer that past service from MSRS-General to MSRS-Correctional using the process specified above. *Laws 2007, Ch. 134, Art. 3, Sec. 6. Source: H.F. 2279 (Doty); S.F. 2027 (Koering)*

Unclassified State Employees Retirement Program (MSRS-Unclassified)

1. Included Employee Provision Technical Changes. The MSRS-Unclassified included employee provision is revised by removing references to employing units that no longer exist and by listing in the provision groups that had been added to the plan by prior special or general law but which had not been listed in the included employee provision. These include employees of Minnesota Technology Incorporated (MTI); the Agricultural Utilization Research Institute (AURI); Minnesota State Colleges and Universities System (MnSCU) faculty or eligible MnSCU unclassified administrators who were employed by the former state university or community college system prior to May 1, 1995, and who elected MSRS-Unclassified coverage; and MnSCU employees employed in state service prior to July 1, 1995, and who were subsequently employed in an eligible MnSCU unclassified administrative position. *Laws 2007, Ch. 134, Art. 2, Sec. 10. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
2. Limited Post-Termination Transfers to General Plan Authorized. Individuals eligible to transfer from MSRS-Unclassified to the MSRS-General (MSRS-Unclassified members with at least ten years of covered service) are permitted to transfer to MSRS-General up to one month after termination of service rather than prior to termination of service. *Laws 2007, Ch. 134, Art. 2, Sec. 11. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*

3. Retroactive Accrual Dates Prohibited. The plan's accrual date provision is revised to prohibit benefit accrual prior to the date of the application (current law permits up to six months of retroactive accrual). *Laws 2007, Ch. 134, Art. 2, Sec. 12. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
4. Positions Added to MSRS-Unclassified Coverage Provision. The State Court Administrator and Judicial District Administrators are added as MSRS-Unclassified participants. This provision was included in the Omnibus Public Safety Finance Bill. *Laws 2007, Ch. 54, Art. 5, Sec. 7. Source: House Finance Committee Amendment to H.F. 829 (Paymar); S.F. 650 (Higgins)*

State Patrol Retirement Plan

1. Gang and Drug Oversight Council Coordinator Included in Plan Membership. The statewide coordinator of the Gang and Drug Oversight Council will be covered by the State Patrol Retirement Plan if the person is a licensed peace officer. The definition of "peace officer" in Minnesota Statutes, Section 626.84, Subd. 1, is revised to include the statewide coordinator of the Gang and Drug Oversight Council. *Laws 2007, Ch. 134, Art. 11, Sec. 7, 9. Source: H.F. 1010 (Hilstrom); S.F. 1042 (Neuville)*

Judges' Retirement Plan

1. Revised Early Retirement Date Definition. "Early retirement date" means the exact date (rather than the end of the month) on or after the judge attains age 60 and on which a judge retires under an early retirement provision. *Laws 2007, Ch. 134, Art. 2, Sec. 47. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
2. Revised Normal Retirement Date Definition. "Normal retirement date" means the exact date (rather than the end of the month), on which a judge attains age 65. *Laws 2007, Ch. 134, Art. 2, Sec. 48. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*

B. Public Employees Retirement Association (PERA)

General Employee Retirement Plan (PERA-General)

1. Conforming Change: PERA Excluded Employee Provision. The excluded employee provision is revised by eliminating an obsolete MTRFA reference. *Laws 2007, Ch. 134, Art. 1, Sec. 4. Source: H.F. 1978 (Murphy, M.); S.F. 430 (Betzold)*
2. Revised Included Employee Provision. The provision is revised by clarifying that salaries from all positions held by a person within a governmental unit will be totaled for purposes of meeting the \$425 salary threshold, and by adding language, moved from the excluded employee provision, stating that elected officials retain plan membership for the duration of the person's employment in that position or incumbency in elected office. *Laws 2007, Ch. 134, Art. 2, Sec. 13. Source: H.F. 889 (Murphy, M.); S.F. 296 (Betzold)*
3. Various Groups Added to Government Subdivision Definition. The definition of "governmental subdivision" (Minnesota Statutes, Section 353.01, Subd. 6) is updated by making technical corrections and by making the changes listed below. *Laws 2007, Ch. 134, Art. 2, Sec. 15 and 22. Source: H.F. 889 (Murphy, M.); S.F. 296 (Betzold)*

Note: One of the technical changes was to rename the "Metropolitan Intercounty Association" as the "Minnesota Intercounty Association." Another bill (Laws 2007, Ch. 6) also renamed that association, but the new name was written as "Minnesota Inter-county Association."

- Extends the definition to include units or instrumentalities of local governments.
- Clarifies that a public body is a government subdivision if it is established under state or local government authority that has a governmental purpose, is under public control, is responsible for the employment and payment of the salaries of the entity's employees, and which receives a major portion of its revenues from taxation, fee assessment, or from other public purposes, rather than whose revenues are derived from those sources.
- Includes charter schools; service cooperatives exercising retirement plan participation under 123A.21; various joint powers boards, family service collaboratives, and children's mental health collaboratives, if the creating entities are governmental units that otherwise qualify for retirement plan membership.

- States that family service or children’s mental health collaboratives are not governmental subdivisions if the board is not totally composed of representatives of governmental units.
 - Adds a paragraph stating that a 501(c)(3) nonprofit corporation or a nonprofit under Minnesota Statutes, Section 317A, is not a government subdivision unless the entity has obtained a written advisory opinion from the federal Department of Labor or an Internal Revenue Service (IRS) ruling declaring the entity to be an instrumentality of the state, and if its inclusion in PERA would be consistent with government plan qualification requirements in federal code.
 - Adds a paragraph stating that if PERA determines that an organization is a government subdivision, it shall be subject to the PERA coverage for its eligible employees on a prospective basis. However, if the entity met the definition of a governmental subdivision prior to PERA’s determination letter, PERA’s omitted contribution provision would apply from the date that the organization first met the definition of a governmental subdivision. If the period exceeds three years, the individual could purchase that portion of the total period at full actuarial value. These procedures do not apply if the employment was covered by any public or private defined benefit or defined contribution plan, other than a volunteer fire plan.
4. Revised Leave of Absence Payment Terms. To receive service credit for an unpaid leave of absence, the individual must pay contributions plus 8.5 percent annual interest within one year of the end of the leave, or must pay full actuarial value thereafter. *Laws 2007, Ch. 134, Art. 2, Sec. 16, 18. Source: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)*
 5. Revised “Retirement” Requirements. The definition of “retirement” is revised by removing language prohibiting individuals from receiving a coordinated plan annuity if the individuals were PERA-General basic plan members or PERA-P&F members who, after a brief termination, commence PERA-General coordinated employment but provide less than six months of coordinated service before again terminating; by permitting a PERA defined benefit plan retirement annuity to commence even though an individual becomes an elected official within 30 days of separation from employment covered by a PERA defined benefit plan; and by permitting elected officials who were covered by PERA-General for that elected official employment to commence drawing an annuity if the individual resigns from office before filing for reelection and remains completely and continuously separated from that office for at least 30 days before the election date. *Laws 2007, Ch. 134, Art. 2, Sec. 17. Source: H.F. 889 (Murphy, M.); S.F. 296 (Betzold)*
 6. Revised Board Powers Provision. The PERA board powers provision is revised for style and to authorize PERA to adopt rules necessary to comply with Internal Revenue Service (IRS) and federal Department of Labor requirements. *Laws 2007, Ch. 134, Art. 2, Sec. 19. Source: Amendment to H.F. 126 (Murphy, M.); S.F. 7 (Betzold)*
 7. Revised Executive Director Standards Provision. The 1985 requirement of Senate confirmation of the PERA executive director is eliminated, and two unspecified PERA positions may, rather than must, be in the unclassified service. *Laws 2007, Ch. 134, Art. 2, Sec. 20. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
 8. Revised Collection Procedures. Language is added specifying how to prorate any collected amounts if the amount is insufficient to meet the full obligation, and if the applicable government subdivision has been dissolved or closed, the 60-day waiting period in prior law is waived and amounts can be immediately certified for collection. *Laws 2007, Ch. 134, Art. 2, Sec. 23. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
 9. Clarification of Retirement Annuity Provision. The PERA retirement annuity provision is revised by removing cross-references to a previously repealed subdivision. *Laws 2007, Ch. 134, Art. 2, Sec. 24. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
 10. Clarification of “Rule of 90” Provision. The PERA “Rule of 90” provision is revised by correcting cross-references and by clarifying that an individual must terminate from service before a “Rule of 90” annuity can commence. *Laws 2007, Ch. 134, Art. 2, Sec. 25. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
 11. Clarification of Pre-1989, 30 Years of Service Provision. Language in the PERA pre-1989, 30 years of service provision is clarified by stating that an individual must terminate from service before an annuity can commence, and by correcting cross-references. *Laws 2007, Ch. 134, Art. 2, Sec. 26. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*

12. Clarification of Pre-1989 Early Retirement Provision. PERA's pre-1989 early retirement provision is clarified by stating that an individual must terminate from service before an annuity can commence, by correcting cross-references, and by removing redundant language. *Laws 2007, Ch. 134, Art. 2, Sec. 27. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
13. Clarification of Surviving Spouse Optional Annuity Provision. The provision is clarified regarding which benefit computation procedures apply to survivors of pre-July 1, 1989, hires rather than to survivors of employees hired on or after that date. *Laws 2007, Ch. 134, Art. 2, Sec. 28. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
14. Clarification of Coordinated Program Term-Certain Survivor Annuity. The coordinated program term-certain annuity survivor coverage provision is clarified by stating that the benefit terminates at the end of the term-certain period. *Laws 2007, Ch. 134, Art. 2, Sec. 29. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
15. Clarification of Deferred Annuity Provision. The law in effect upon termination of service or termination of membership, whichever is earlier, will apply to the deferred annuity computation, and cross-references are corrected or removed, as applicable. *Laws 2007, Ch. 134, Art. 2, Sec. 30. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*
16. Disabilitant Trial Work Period Provision Restricted to General Plan. The PERA disability trial work period provision, Section 353.33, Subd. 7a, is revised by restricting the provision's application to PERA-General rather than applying to all PERA plans. *Laws 2007, Ch. 134, Art. 4, Sec. 13. Source: H.F. 127 (Murphy, M.); S.F. 85 (Betzold)*
17. Special Law Provision: Service Credit Purchase for St. Paul City Employee. A St. Paul Public Works Department employee initially employed as a seasonal employee, who qualified for plan coverage in November 1988 but was not reported by the city for plan coverage until October 1989, is authorized to purchase service credit for the uncovered period. If the employee pays the employee contribution plus 8.5 percent annual compound interest, the city must pay the remainder of the full actuarial value payment. *Laws 2007, Ch. 134, Art. 12, Sec. 1. Source: H.F. 876 (Swails); S.F. 2016 (Saltzman)*
18. Special Law Provision: Service Credit Purchase for Rochester Community Education Teaching. A person born on March 4, 1939, who, due to employer error, failed to have contributions made to PERA for Rochester community education service, is authorized to purchase service and/or salary credit. To receive PERA credit, the individual will pay one-third of the full actuarial value payment, while the Independent School District No. 55, Rochester, will pay the remainder. *Laws 2007, Ch. 134, Art. 12, Sec. 5. Source: H.F. 1878 (Welti); S.F. 1853 (Senjem)*
19. Special Law Provision: Late Disability Benefit Application Authorized. A retired Benson School District employee who failed to apply for disability benefits within the required three-year time limit following termination of service is permitted to file a disability benefit application. *Laws 2007, Ch. 134, Art. 12, Sec. 6. Source: H.F. 2130 (Peterson, A.); S.F. 1779 (Kubly)*
20. Repealers. Section 353.30, Subd. 1, an obsolete PERA-General annuity provision; Section 353.34, Subd. 7, a provision requiring individuals who did not return to covered employment following a sick leave to wait 120 days after the end of the sick leave before filing for a refund; and Section 353.69, a provision allowing individuals to retain active PERA membership if they become elected officials not normally covered by PERA, or if they become municipal employees not normally covered by PERA, are repealed. *Laws 2007, Ch. 134, Art. 2, Sec. 50. Source: H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold)*

Local Government Correctional Employees Retirement Plan (PERA-Correctional)

1. Normal Retirement Age Definition Added. Language is added clarifying that age 55 is the normal retirement age for PERA-P&F and PERA-Correctional. *Laws 2007, Ch. 134, Art. 4, Sec. 1. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
2. Various Disability Definitions Added to Plan. Several disability definitions are added. *Laws 2007, Ch. 134, Art. 4, Sec. 31. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
 - "Duty disability" is defined as a physical or psychological disabling condition, expected to prevent the member from performing the normal duties of the position for a period of at least one year, caused by injury or disease incurred in performance of duties while protecting the

