



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LAM*
RE: Pending Pension Legislation from the 2009 Legislative Session
DATE: June 3, 2009

Introduction

In scheduling the work of the Legislative Commission on Pensions and Retirement during the 2009 Legislative Session, Senator Don Betzold, the Commission chair, postponed for interim consideration some proposed legislation that was not urgent.

Of the pension or retirement bills introduced during the 2009 Legislative Session, 11 bills were not processed by the Commission and two bills or portions of bills were deferred to later action by the Commission.

Proposed Pending Unheard Pension or Retirement Legislation

The following bills, grouped by the topic subject matter, were not heard by the Legislative Commission on Pensions and Retirement during the 2009 Legislative Session:

A. Unclassified State Employees Retirement Program of the Minnesota State Retirement System

1. S.F. 889 (Betzold); H.F. xxx: MSRS-Unclassified; Changes in Membership Transfer Authority; Elimination of Maximum Administrative Fee. The proposed legislation amends Minnesota Statutes, Chapters 352 and 352D, the statutory chapters government the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and the MSRS Unclassified State Employees Retirement Program (MSRS-Unclassified), by making the following changes:
 - a. References MSRS-Unclassified-Covered State Employees in MSRS-General Inclusion and Exclusion Definitions. The MSRS-General definition of included employees (Minnesota Statutes, Section 352.01, Subdivision 2a) and excluded employees (Minnesota Statutes, Section 352.01, Subdivision 2b) are augmented with the addition of appropriate references to MSRS-Unclassified-covered employees. (Sections 1-2)
 - b. Revises MSRS-General Definition in MSRS-Unclassified Law. The definition of MSRS-General (Minnesota Statutes, Section 352D.015, Subdivision 4) is updated in MSRS-Unclassified law and cross-references (Minnesota Statutes, Sections 352D.02, Subdivision 1c, and 352D.05, Subdivision 4) are revised. (Sections 3, 5, and 12)
 - c. Limitations on Ability to Elect MSRS-Unclassified Coverage. The current largely unrestricted ability to elect MSRS-Unclassified coverage (Minnesota Statutes, Section 352D.02, Subdivisions 1, 1d, and 2) is restricted to state employees hired before July 1, 2009. Employees hired after June 30, 2009, may only elect MSRS-Unclassified coverage within their first three years of state employment and a transfer election is irrevocable. (Sections 4, 6, 7, and 9)
 - d. Limitation on Transfer Back From MSRS-Unclassified to MSRS-General. The current ability of MSRS-Unclassified-covered state employees to transfer back to MSRS-General coverage at or before state employment termination with at least 10 years of service (Minnesota Statutes, Section 352D.02, Subdivision 3) is limited to pre-July 1, 2009, hires. (Section 8)
 - e. Limitation on MSRS-General Assets Transfer to MSRS-Unclassified. The investment return for member and employer contributions transferred from MSRS-General to MSRS-Unclassified (Minnesota Statutes, Section 352D.03) is set at six percent compound interest annually rather than set at actual investment returns of MSRS-General. (Section 10)

- f. Investment Option Clarification. The election of investment options (Minnesota Statutes, Section 352D.04, Subdivision 1) for MSRS-Unclassified must be made in a manner specified by MSRS rather than on MSRS forms and investment changes must comply with any trading restrictions imposed. (Section 11)
 - g. Elimination of MSRS-Unclassified Administrative Fee Limits. The prohibition on the charging of any administrative fees on pre-July 1, 1992, contributions and the one-tenth of one percent annual limit on contributions and investment returns for contributions after June 20, 1992 (Minnesota Statutes, Section 352D.09, Subdivision 7), are eliminated. (Section 13)
2. S.F. 1180 (Betzold); H.F. 1774 (Nelson): Deferred Compensation and MSRS-Unclassified; Revisions to the State Deferred Compensation Program and MSRS-Unclassified. The proposed legislation amends Minnesota Statutes, Section 352.965, the law governing the state deferred compensation program, and various provisions of Minnesota Statutes, Chapter 352D, the statutory chapter governing the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), by making the following changes:
- a. Deferred Compensation Program Administrative Expense Reporting. The deferred compensation plan administrative expense provision (Minnesota Statutes, Section 352.965, Subdivision 6) is amended by requiring employers to supply necessary personal and financial data to the third-party administrator on plan participants and by clarifying that the third-party administrator must comply with data privacy requirements. (Section 1)
 - b. Deferred Compensation Program Employer Reporting. The third-party administration provision (Minnesota Statutes, Section 352.96, Subdivision 6) is amended to require employers of deferred compensation program participants to provide necessary data. (Section 2)
 - c. MSRS-Unclassified Asset Value Definition Revision. The definition of "value" in MSRS-Unclassified (Minnesota Statutes, Section 352D.015, Subdivision 9) is amended by specifying that value means the account's market value at the end of the day rather than the value at the end of the month following receipt of an annuity. (Section 3)
 - d. Employer Unclassified Reporting Requirement. New Minnesota Statutes, Section 352D.02, Subdivision 7, is added requiring employers to provide personal and financial data to an outside record keeper selected by MSRS. The record keeper must comply with data privacy procedures. (Section 4)
 - e. MSRS-Unclassified Daily Asset Pricing Implementation. An MSRS-Unclassified investment option provision (Minnesota Statutes, Section 352D.04, Subdivision 1) is amended by clarifying the provision and by making language changes consistent with the change from monthly to daily pricing and by permitting changes in the funds used to invest an account to be made electronically rather than in writing. An MSRS-Unclassified asset withdrawal provision (Minnesota Statutes, Section 352D.05, Subdivision 3) is amended to be consistent with daily rather than monthly valuation of accounts. (Sections 5 and 6)
 - f. MSRS-Unclassified Annuity Reserves in Fixed Interest Account. The MSRS-Unclassified retirement annuity reserve provision (Minnesota Statutes, Section 352D.06, Subdivision 1) is amended to eliminate reference to the Minnesota Post Retirement Investment Fund and to deposit annuity reserves in the fixed interest account of the Minnesota Supplemental Investment Fund. (Section 7)
 - g. MSRS-Unclassified Retirement Annuity Accrual Date. The MSRS-Unclassified retirement accrual date provision (Minnesota Statutes, Section 352D.06, Subdivision 3) is amended to permit an annuity to accrue the day after receipt of a valid application or the day following termination of employment, whichever is later, rather than at the start of the next full month. (Section 8)
 - h. MSRS-Unclassified Disability Benefit Accrual Date. The MSRS-Unclassified disability accrual date provision (Minnesota Statutes, Section 352D.065, Subdivision 3) is amended to have disability annuities accrue the day after receipt of a valid application or the day following termination of employment, whichever is later, rather than at the start of the next full month. (Section 9)

- i. MSRS-Unclassified Prospectus Distribution. The MSRS-Unclassified prospectus provision (Minnesota Statutes, Section 352D.09, Subdivision 3) is amended by requiring the MSRS executive director to make the MSRS-Unclassified investment prospectus available by electronic means and by permitting individuals to request hard copies rather than by requiring distribution of a prospectus to each participant. (Section 10)
 - j. MSRS-Unclassified Administrative Fee Maximum Elimination. The MSRS-Unclassified administrative fees provision (Minnesota Statutes, Section 352D.09, Subdivision 7) is amended by removing the cap on administrative fees. (Section 11)
3. S.F. 1407 (Tomassoni); H.F. 1358 (Mahoney): MSRS-Unclassified; Legislator Election of Defined Benefit Plan Coverage. The proposed legislation amends Minnesota Statutes, Section 352D.02, Subdivisions 1 and 3, the program inclusion, elections, and transfer back to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) provisions of the MSRS Unclassified State Employees Retirement Program (MSRS-Unclassified), by permitting legislators, constitutional officers, and certain long-serving judges to elect MSRS-General plan coverage from the start of employment and by permitting legislators and certain long-serving judges to elect MSRS-General plan coverage retroactively upon attaining at least ten years of service credit.

B. Marriage Dissolution Bounce-Back Treatment

- 4. S.F. 45 (Betzold); H.F. 474 (Thissen): PERA; Permitting Judicially Ordered Bounce-Back Annuities upon Marriage Dissolutions. The proposed legislation amends Minnesota Statutes, Section 353.30, the retirement annuities provision of Public Employees Retirement Association (PERA) law, and Minnesota Statutes, Section 518.58, Subdivision 4, the pension plan marriage dissolution property division law, by allowing a former member or disability benefit recipient of PERA, if ordered by the court as part of a marriage dissolution, the waiver of a future optional annuity form.
- 5. S.F. xxx; H.F. 814 (Urdahl): PERA and TRA; Authorizing Bounce-Back Annuity When Marriage Dissolution Decree Revokes Joint-and-Survivor Annuity Form. The proposed legislation applies to the Teachers Retirement Association (TRA) and to the Public Employees Retirement Association (PERA) defined benefit plans, requires the monthly benefit received by the plan annuitant to bounce back to a single-life annuity level if a divorce or an annulment decree specifies that the spouse is not to receive the second half of the joint-and-survivor annuity form the retiree had elected. The court may specify this treatment if non-pension marital assets are not sufficient to avoid a distribution that does not require this annuity form waiver. The revisions in law apply retroactively to include divorce and annulment decrees granted within two years of the enactment date.

C. Early Retirement Incentives

- 6. S.F. 1417 (Pogemiller); H.F. 1327 (Murphy, M.): MSRS, PERA, and TRA; Lump Sum Health Care Savings Account Payment Early Retirement Incentive. The proposed legislation amends Minnesota Statutes, Section 356.351, Subdivision 1, the 2006 early retirement incentive applicable to various retirement plans, by increasing the incentive amount from \$17,000 to the sum of six months of health insurance premiums and 72 weeks of unemployment compensation.
- 7. S.F. 1679 (Bakk); H.F. 1893 (Carlson): State Employment Insurance Continuation Early Retirement Incentive. The proposed legislation would provide an early retirement incentive of up to 36 months of all or a portion of employer health and dental insurance premiums to a state employee in the executive, legislative, or judicial branch, the University of Minnesota, the Minnesota State Colleges and Universities System, or one of the three statewide retirement plan administrations who has at least 15 years of covered service.

D. Governance and Management

- 8. S.F. 1601 (Olson, M.); H.F. 1793 (Nelson): TRA; Additional Elected Retiree Representative on Board of Trustees. The proposed legislation would amend Minnesota Statutes, Section 354.06, Subdivision 1, to increase the Teachers Retirement Association (TRA) Board of Trustees to nine members with the addition of a second retiree representative elected by the retired membership, beginning in 2009.

E. Probation Officer Special Retirement Coverage

9. S.F. xxx; H.F. 761 (Kalin): Actuarial Cost Study of Age 60 Normal Retirement Age Retirement Plan for Post-Sentencing Officers. The proposed legislation would require the Public Employees Retirement Association (PERA) to conduct an actuarial cost study of a special retirement plan with an age 60 normal retirement age for post-sentencing officers on or before December 1, 2009.

F. One Person/Small Group Bills

10. S.F. 1374 (Metzen); H.F. 1569 (Henson): PERA-P&F; Grant Joint and Survivor Annuity for Ex-Spouse of Single Life Annuitant. The proposed legislation permits the 67-year-old ex-spouse of a retired former South St. Paul police officer who elected a single life annuity to receive the second portion of a 50-percent joint and survivor optional annuity to compensate for the harm caused by inappropriate counseling by the Public Employees Retirement Association (PERA).
11. S.F. 1687 (Saltzman); H.F. 1929 (Bunn): PERA-General; Waiver of Retirement Annuity Repayment Request for Bayport Independent Contractor/City Administrator. The proposed legislation requires the Public Employees Retirement Association (PERA) executive director to find that a 2005 retiree who was retained by the former employer, the City of Bayport, as a consultant to have retired in April 2005 and not be required to repay the PERA General Employee Retirement Plan (PERA-General) annuity previously received because of incomplete or inaccurate benefit counseling by PERA.

Proposed Pension Legislation Initially Heard by the Commission and Laid Over

Two pension bills were initially heard by the Legislative Commission on Pensions and Retirement and not acted upon by the Commission in whole or in part. The following bills are the proposed legislation with uncompleted Commission consideration:

G. Teachers Retirement Association Service Credit Redefinition

1. S.F. 578 (Betzold); H.F. 1123 (Murphy, M.), sections 17, 19, 29, and 30. The relevant uncompleted consideration portions of the proposed legislation are:
 - a. Section 17 adds a subdivision, defining annual base salary, to Minnesota Statutes, Section 354.05, for purposes of computing TRA service credit. As proposed, "annual base salary" is:
 - i. For independent school districts and educational cooperatives, the lowest Bachelor of Arts base contract salary for the previous fiscal year for that employing unit;
 - ii. For charter schools, the lowest starting salary for a full-time licensed teacher during the previous fiscal year for that employing unit;
 - iii. For state agencies and professional organizations, the lowest starting annual salary for a full-time TRA-covered position for the previous fiscal year for that employing unit;
 - iv. For new employing units, the annual base salary for the first year of operation will be as stated in a), b), or c) above, except that the lowest annual salary for the first year of operation will be used since there is no prior year; and
 - v. If a new employing unit is formed by merging existing units, the annual base salary will be the lowest annual salary as specified in a), b), or c) above for any unit included in the merger.
 - b. Section 19 revises the TRA service credit provision, Minnesota Statutes, Section 354.091, by changing the methodology for determining service credit for K-12 teachers by scrapping the current law where teaching at least 170 full days in a fiscal year provides the K-12 teacher with a full year of service credit and teaching at least five hours in a day results in a full day of service credit, and replacing it with a system where service credit will be a function of the teacher's salary relative to a base salary in the district rather than hours of service, computed monthly by dividing the teacher's monthly salary by the monthly base salary for the applicable employing unit, and multiplying the result by 0.111.

For employing units that have non-traditional work schedules or pay schedules, the procedure for determining service credit must be approved by the executive director.

The changes are effective for teaching service performed after June 30, 2010.

- c. Section 29 amends Minnesota Statutes, Section 354.52, by adding a subdivision requiring TRA employing units to annually report base salary and the beginning and ending dates of the regular school year.
- d. Section 30 revises Minnesota Statutes, Section 354.52, Subdivision 6, a TRA provision requiring fines for employing unit failures to comply with reporting requirements, by making the provision apply to the new annual base salary reporting requirement (Section 26), and by permitting a reporting delay if base salary has not been settled or determined by the June 30 report due date.

B. MERF Consolidation with PERA-General

2. S.F. 914 (Betzold); H.F. 1100 (Thissen). The proposed legislation amends portions of Minnesota Statutes, Chapters 6, 13D, 43A, 69, 126C, 256D, 352, 353, 354A, 356, 422A, 473, and 480, and provides for the consolidation of the Minneapolis Employees Retirement Fund (MERF) into the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) on July 1, 2010.

Specifically, the proposed legislation provides for the following:

- a. Consolidation Initiation. The MERF/PERA-General consolidation would be initiated by legislation, without any formal initiation action required of MERF, the City of Minneapolis, the MERF Association, or PERA. (Section 35)
- b. Consolidation Approval Procedures. The consolidation would be implemented on July 1, 2010. (Section 35, Subdivision 7)
- c. Funding Upon and Following the Consolidation. Legal title to all current assets of MERF would transfer to PERA/State Board of Investment on the effective date of the consolidation, with the beneficial title to the assets remaining in the MERF members. The City of Minneapolis would continue annually to make its contributions for MERF members to PERA set at the Fiscal Year 2008 dollar amount level until 2020. Additionally, the City of Minneapolis and other MERF-covered employing units would make an additional one-time contribution sufficient to bring the MERF funding ratio, determined at the market value of assets, up to the June 30, 2009, PERA-General funding ratio, determined at the market value of assets and payable either in a lump sum or in annual installments, with interest at 8.5 percent, for ten years. State aids currently payable to MERF would become payable to PERA-General until 2020, the PERA-General amortization target date. If PERA-General becomes fully funded before June 30, 2031, the state aids related to the former MERF and the Minneapolis ongoing annual regular contribution end as of the January 1 next following the full funded date. (Section 21, Section 35, Subdivisions 4 and 5, and Section 57)
- d. Disposition of MERF Tangible Assets and Personnel. The MERF office lease should be converted to a month-to-month lease in anticipation of the consolidation and would end on or shortly after the effective date of the consolidation. Any MERF office equipment should be transferred to PERA-General or surplus in the ordinary manner either through the State of Minnesota, the City of Minneapolis, or the Minneapolis Public School District. MERF employees hired before June 30, 2008, would be transferred to subsequent employment by either the City of Minneapolis or Special School District No 1 without loss of salary or benefits for a yet-to-be specified period, then would be given a civil service employment preference comparable to a veteran's preference for municipal or school district employment in a position determined appropriate based on the employee's education and experience by the normal Human Resources process of the governmental entity. (Section 35, Subdivision 3, and Section 63)
- e. Consolidation Transfers. MERF assets have already been shifted to the Minnesota Supplemental Investment Fund, operated by the State Board of Investment. As of June 30, 2009, the MERF Board would no longer have any investment authority over the MERF assets with the State Board of Investment and the State Board of Investment would then either

continue the investment of former MERF assets in the Minnesota Supplemental Investment Fund or would transfer the former MERF assets to PERA's participation in the Minnesota Combined Investment Funds. MERF's membership and business records would be transferred to PERA as of July 1, 2010. After consolidation, retirement benefit payments to benefit recipients of the former MERF would become the responsibility of PERA. A successor-in-interest provision substitutes PERA for MERF in all legal obligations or for potential causes of action other than instances where MERF fiduciaries were not acting in good faith. (Section 35, Subdivision 4)

- f. Benefit Plan Conversion. Current MERF active members would be covered by the current benefit provisions of Minnesota Statutes 2008, Chapter 422A, administered by PERA, except for post-retirement adjustments, which would be an automatic 2.5 percent increase annually, and upon retirement, the initial annuity would be adjusted to that amount which, with a 2.5 percent post-retirement adjustment, would have the same actuarial present value as the pre-adjustment MERF annuity with the MERF Retirement Benefit Fund adjustment (i.e., Consumer Price Index-based increases up to 3.5 percent annually). Service credited by MERF for current actives before consolidation would be credited by PERA-General as reported by MERF. The current benefit and related provisions of Minnesota Statutes, Chapter 422A, would be repealed effective upon the consolidation. MERF retirees initially would receive their current benefit amounts adjusted for an additional annuity amount that has the same actuarial present value as the difference between an automatic 2.5 percent annual post-retirement adjustment and an automatic post-retirement adjustment based on CPI increases up to 3.5 percent and then would receive annual automatic 2.5 percent post-retirement adjustments. (Sections 22 to 34; and Section 35, Subdivision 5)
- g. Conforming Changes. Cross-references to MERF and statutory citations to MERF or MERF-related provisions are eliminated and most current MERF provisions are repealed. (Sections 1 to 20; 36 to 56; 58 to 62; and 64 to 66)

Conclusion

Based on the inclinations of the Commission to hear the pending or remaining pension legislation and the scheduling of that proposed legislation, the Commission staff will provide Commission members with a full issue memorandum on each scheduled bill or portion of a bill.