

Background Information on MSRS-Unclassified Plan Asset Transfer Provisions

The Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) includes asset transfer provisions. One type of asset transfer provision deals with transfers out of MSRS-Unclassified by individuals covered by MSRS-Unclassified who choose to transfer coverage to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). The second type deals with transfers of pension assets into MSRS-Unclassified by individuals previously covered by another plan or plans, who due to a change in employment are now covered by the MSRS-Unclassified program. This second type of asset transfer provision permits the individual to transfer to the person's MSRS-Unclassified account most or all of the assets attributable to the prior service.

1. Transfers out of MSRS-Unclassified to MSRS-General. Minnesota Statutes, Section 352D.02, Subdivision 3, specifies procedures and requirements which permit MSRS-Unclassified members (other than constitutional officers, legislators, and judges who are in the MSRS-Unclassified plan for prospective service because they have exceeded the service credit limits permitted in the Judges Plan) to transfer past and prospective service coverage to MSRS-General. For individuals who were employed before July 1, 2010, the individual must have at least ten years of allowable service to qualify for transfer. If the individual is first employed after June 30, 2010, the person must have no more than seven years of allowable service. The election must be in writing on a form provided by the executive director, and be made while in covered employment or within one month after termination of service. The election is irrevocable. If the employee would have paid higher contributions during the past service if that service had been covered by MSRS-General rather than MSRS-Unclassified, the person must make an additional payment to the MSRS-General fund equal to the contribution difference.

2. Transfers into MSRS-Unclassified Account from Prior Plans. A few statutory provisions permit individuals with prior service in Minnesota defined benefit plans to move retirement assets from those plans into their MSRS-Unclassified account. The provisions are somewhat redundant, and in the specific case where they apply to transfers from MSRS-General into MSRS-Unclassified, they are contradictory. The provisions are summarized in the chart below. One of the provisions is Minnesota Statutes, Section 352D.12. A similar but not identical procedure and requirements are specified in Section 352D.02, Subdivision 1c, as further clarified by Section 352D.03.

	Section 352D.12	Sections 352D.02, Subdivision 1c; and 352D.03
General description	Permits an individual covered by MSRS-Unclassified, who had prior service in one or more eligible Minnesota defined benefit plans, to transfer to the MSRS-Unclassified account eligible prior contributions from earlier plans.	Permits an individual covered by MSRS-Unclassified, who had prior service in MSRS-General, to transfer eligible prior contributions from MSRS-General.
Eligible prior plans	MSRS-General, MSRS-Correctional, PERA-General, PERA-P&F, TRA, first class city teacher plans, MERF.	MSRS-General.
Election period	During first year of MSRS-Unclassified coverage.	No specified period.
Contributions eligible for transfer	Employee contributions from eligible prior plan or plans plus equal amount of employer contributions.	Employee contributions from MSRS-General plus "matching" employer contributions.
Interest included with transferred contributions	8.5% interest compounded annually, based on fiscal year balances.	6% interest compounded annually.
Refund repayment language included in provision	Refund repayment of any refunds previously taken from prior plans, plus 8.5% interest. The repayment must be made during the first year of MSRS-Unclassified coverage.	None.

Minnesota Statutes, Section 352D.12, permits an individual covered by MSRS-Unclassified, who has prior service in one or more eligible Minnesota defined benefit plans, to elect to transfer to the person's MSRS-Unclassified account prior service contributions from eligible prior plans. Eligible prior plans are plans specified in Minnesota Statutes, Chapter 352 (MSRS-General, MSRS-Correctional); Chapter 353 (the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), Public Employees Police and Fire Retirement Plan (PERA-P&F)); Chapter 354 (Teachers Retirement Association (TRA)); Chapter 354A (first class city teacher plans); or Chapter 422A (the Minneapolis Employees Retirement Fund (MERF)). Section 352D.02, Subdivision 1c, in conjunction with Section 352D.03, is a somewhat similar transfer provision, but the only eligible prior plan specified in the provision is MSRS-General.

Certain problems are evident. First, procedures for asset transfers out of MSRS-General appear in all of these statutes, but the statutes are in conflict regarding elections and authorized transfer amounts. Differences include the eligible election period, differences in the specified rate of return to be used to compute the investment earnings to be included in the transfer, and refund repayment rights. Transfers under Section 352D.12 are permitted only if elected during the first year of MSRS-Unclassified coverage. In contrast, Sections 352D.02, Subdivision 1c, and 352D.03 do not specify any specific period for the election. Presumably the election can be made anytime during covered MSRS-Unclassified Plan employment. The amount that can be transferred differs considerably. Section 352D.12 specifies that the contributions will transfer with 8.5% interest, while the other procedure specifies that the transferred contributions will include only 6% interest. Finally, Section 352D.12 includes refund repayment language, authorizing the individual to repay any refunds taken from the prior plan or plans. The other set of provisions includes no refund repayment language. However, none may be required. MSRS administrators may interpret its general repayment of refund provision, Minnesota Statutes, Section 352.23, as applying.

A second issue is inconsistent treatment across plans. The requirements in Section 352D.12 which include some MSRS plans, various PERA plans, teacher plans, and MERF, differ from those in Sections 352.02, Subdivision 1c, and 352D.03.

A third issue is proper scope. In addition to clarifying these procedures to remove inconsistencies, the Legislature may wish to decide whether other plans should be included. For instance, Section 352D.12 includes PERA-P&F in the eligible plans, but the generally comparable MSRS State Patrol Plan is not included. If it is proper to include PERA-P&F, the justification for excluding the comparable MSRS State Patrol Plan is unclear. Another plan not explicitly included is the Local Government Correctional Service Retirement Plan (PERA-Correctional), governed by Minnesota Statutes, Chapter 353E. The PERA-Correctional Plan is a somewhat newer plan, created in 1999. Perhaps the exclusion reflects a failure to properly consider the full set of appropriate changes when the plan was created. However, PERA might contend the PERA-Correctional Plan is included, due to Minnesota Statutes, Section 353E.08. That is a scope and application provision which states that the general provisions of Chapter 353 apply to the Local Government Correctional Plan except where otherwise specified in the Local Government Correctional Plan chapter, Chapter 353E. If that is the case, however, for clarity it would be better to explicitly add that plan to one of the asset transfer provisions.