

SF 3556 (Frentz); HF 3671 (Frederick): MSRS Correctional Employees Retirement Plan; Adds “Residential Program Lead” to the list of covered positions

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Introduction

- Affected Plan:** Minnesota State Retirement System (MSRS) Correctional State Employees Retirement Plan (Correctional Plan)
- Laws Amended:** Minnesota Statutes, section 352.91, subdivision 3f.
- Brief Description:** This bill adds the position titled “Residential Program Lead” to the list of Department of Human Services (DHS) positions covered by the Correctional Plan.

Background

MSRS Correctional Plan

The MSRS Correctional Plan covers state correctional officers and their supervisors as well as other state correctional and department of human resources staff that have at least 75% contact with inmates in a state correctional facility or patients in certain state program facilities. The Correctional Plan provides greater benefits to vested employees than is provided by the MSRS General Plan but is also more expensive to employees and employers as shown in the comparison table below.

Comparing Benefits and Contribution Rates of the MSRS General and Correctional Plans ¹

	MSRS General Plan	MSRS Correctional Plan
Pension Formula	1.7% of average salary per year	2.2% of average salary per year
Normal Retirement Age	66	55
Early Retirement Age	55	50
Disability	total and permanent disability	duty disability and total and permanent disability
Vesting period	5 years	partially vested at 5 years; fully vested at 10 years

¹ The table displays data for a new employee as of July 1, 2021.

**Comparing Benefits and Contribution Rates
of the MSRS General and Correctional Plans ¹**

	MSRS General Plan	MSRS Correctional Plan
Employee Contribution Rate	6%	9.6%
Employer Contribution Rate	6.25%	18.85%

Minnesota Statutes, section 352.90, includes a policy statement explaining the purpose for the benefits provided in the Correctional Plan:

It is the policy of the legislature to provide special retirement benefits for and special contributions by certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state correctional facilities; of patients in the state-operated forensic services program, which is comprised of the Minnesota Security Hospital, the forensic nursing home, the forensic transition service, and the competency restoration program; of patients in the Minnesota Sex Offender Program; or of patients in the Minnesota Specialty Health System-Cambridge.

Coverage of DHS Employees

DHS administers several programs to provide care for those in the custody of the state due to a criminal proceeding or who have been civilly committed. One such program is the Minnesota Security Hospital located in St. Peter. The statutes list the positions eligible to participate in the Correctional Plan at the Minnesota Security Hospital.² To be covered by the Correctional Plan, the statutes require that employees in those positions must spend at least 75% of working time in direct contact with patients, and the commissioner of human services must certify to MSRS that the employee satisfies that contact threshold.

Process for Amending the List of Covered Positions

Minnesota Statutes, section 352.91, subdivision 4a, sets forth a process for adding to the positions eligible for Correctional Plan coverage listed in the statute. Under the law, DHS must use an established procedure for evaluating whether an employment position satisfies specific requirements under section 352.91, subdivision 4a, and DHS internal policy. The procedure must provide for an evaluation of the position to determine if:

- (1) at least 75% of the employee’s time is in direct contact with inmates or patients; and
- (2) the employee is regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates or patients.

If the employee satisfies the two requirements, the DHS commissioner may recommend the employment position be included in Correctional Plan coverage. The commissioner must submit the

² Minnesota Statutes, section 352.91, subdivision 3f.

recommendation, along with supporting documentation, to the chair and executive director of the Legislative Commission on Pensions and Retirement (LCPR) and to the chairs of the jurisdictional committees in the house and senate by January 15.

Summary of the Bill

SF 3556 / HF 3671 is a single section amending Minnesota Statutes, section 352.91, subdivision 3f, by inserting “residential program lead” to the list of positions covered by the Correctional Plan. The subsequent clauses are renumbered.

The section is effective on the first day of the payroll period occurring after the date of enactment and applies to prospective service only.

Analysis

Cost

Including additional employees in the Correctional Plan will result in additional costs to both the employer and employee. DHS employees who work in the state-operated forensic services program or the Minnesota sex offender program are either covered by the MSRS General Plan or by the Correctional Plan. MSRS General employee and employer contribution rates are currently set at 6% and 6.25% of pay, respectively. These rates are lower than the current Correctional Plan employee and employer contribution rates of 9.6% and 18.85% of pay, respectively.

Commission staff does not have information on the number of employees that might be affected by the bill. The cost to the employer is 12.6% of the covered payroll of the affected employees.

MSRS has no objections to including these employees in the MSRS-Correctional plan. The addition of this position in the Correctional Plan will not have a meaningful financial impact on the plan. Adding additional employees to a pension plan can have an impact on both the liabilities and assets. Although more people in a plan results in more benefits being paid out, which adds to the liability, the employee and employer contribution rates are intended to pay for that additional liability, aiming for a cost neutral outcome.

Appropriateness of Adding the Residential Program Lead Position

Commission staff has little information about the Residential Program Lead position. However, it should be noted that an identically titled position was added by the Legislature in 1999, to a list of positions covered by the Correctional Plan at the DHS-administered Minnesota Specialty Health System-Cambridge.³

³ Minnesota Statutes, section 352.91, subdivision 3e. See also, Laws of Minnesota 1999, chapter 222, article 13 (adding “mental retardation residential program lead” to the list of covered positions, the position title was later shortened to “residential program lead”)

There is little concern that enacting this bill will lead to inappropriate plan coverage for any DHS employees because only those DHS employees with at least 75% patient contact can be covered by the Correctional Plan. However, the Commission may wish to obtain a full position description before proceeding.

Procedure

As described above, Minnesota Statutes require DHS to implement and follow a specific procedure in order to recommend additions to the list of positions covered by the Correctional Plan.⁴ That procedure does not appear to have been followed for this bill. It is not clear whether the internal evaluation of this position was conducted by DHS. Commission staff has not received a recommendation and supporting documentation from DHS recommending that this position is appropriate for coverage by the Correctional Plan. As a result, it isn't clear whether employees in the Residential Program Lead position will be certified as having the requisite 75% patient contact to be covered by the Correctional Plan and employees in these positions may not be able to transfer past service credit under Minnesota Statutes, section 352.995.

The Commission may act to include this bill in the Omnibus Pension bill regardless of whether the statutory procedure was followed.

Transfer of Past Service from the General Employees Retirement Plan to the Correctional Plan

Section 352.995, subdivision 1, permits an employee to transfer eligible service from the MSRS General Employees Retirement Plan to the Correctional Plan if the employee has their position added to the Correctional Plan using the procedure under 352.91, subdivision 4a, described above. Since that procedure wasn't followed in this case, it is likely that MSRS and DHS would not permit an employee in the newly added Residential Program Lead position to transfer past service credit to the Correctional Plan. If the Commission wishes employees in this position to be able to transfer their past eligible service to the Correctional Plan, the Commission should direct Commission staff to prepare an amendment to that effect.

Transfer of past eligible service under section 352.995 requires a payment by the employee and employer before the service credit may be transferred.

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⁴ Minnesota Statutes, section 352.91, subdivision 4a.