

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor

Tuesday, January 8, 2008

11 a.m. to 1 p.m.

I. Call to Order

Chair Auditor Otto.

II. Review and Approval of Working Group Meeting Minutes

Exhibit A. Draft December 6, 2007 Minutes

III. Review of Working Group Legislative Proposals

Exhibit B.

IV. Return to Service Issues

Exhibit C. Minn. Stat. § 424A.02, subd. 9b

V. Other Business

- Informational Update on the Statewide Plan Proposal
- Online Reporting Forms and Online Signatures
- Financial and Investment Report Distribution
- Topic Suggestions for the 2008/2009 Working Group

VI. Next Meeting

VII. Adjournment

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Thursday, December 6, 2007
12 p.m. to 2 p.m.

Members Present

Ed Dietz, Maplewood Fire Relief Association Treasurer (defined benefit lump sum plans)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Larry Martin, Legislative Commission on Pensions and Retirement Director
Tom Nelson, Northfield Fire Relief Association Secretary (defined benefit lump sum plans)
Rebecca Otto, State Auditor
Curt Roberts, Maple Grove Fire Relief Association President (defined contribution plans)
Tim Simon, Elk River City Finance Director
Mike Stroeing, Minnesota State Fire Department Association Representative
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Jim Hansen, Minnesota Area Relief Association Coalition Representative
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Steven Wallner, Watertown City Finance Director

Others Present

Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst
David Kenney, Assistant Legal Counsel
Mike Miller, Integra Shield Financial Group Representative
Paul Rosen, Pension Analyst
Laura Sayles, DFL House Caucus Research Consultant

The following motions were duly made, seconded and approved:

- RESOLVED to approve the November 29, 2007 Working Group Meeting Minutes.
- RESOLVED to approve the draft language that requires relief associations to report evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds.
- RESOLVED to approve the draft language that eliminates the authority to pay funeral benefits from a relief association's Special Fund.
- RESOLVED to approve the draft language that defines the term "Ancillary Benefit" and changes the way that ancillary benefits are calculated for active members.
- RESOLVED to approve the draft language that changes the definition of the term "Surviving Spouse."

RESOLVED to approve the draft language that eliminates the requirement that deferred interest for certain options be allocated on a monthly basis.

RESOLVED to approve the draft language that changes the Title to Assets authority and requires usage of a uniform Broker Certification Form.

RESOLVED to approve the draft language that changes the “Other Investments” limitation by only counting the allocated portions of index and mutual funds in the 20 percent cap.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The Working Group members reviewed the November 29 meeting minutes that had been provided in advance. A motion was made by Roberts to approve the meeting minutes. Dietz seconded the motion and it was adopted unanimously.

III. Review of Working Group Legislative Proposals

- **Expand Requirement to Report Evidence of Theft (B)**

Draft language was provided that would require relief associations to report evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds. A report must be made to law enforcement, and a written report must be submitted to the State Auditor. Auditor Otto noted that special districts may be added to this requirement in a separate bill. Martin explained that the draft language covers all local public pension plans, while the state retirement systems are subject to reporting requirements with the Legislative Auditor. Zikmund made a motion to approve the draft language. Ganfield seconded the motion and it was adopted unanimously. Zikmund mentioned that he fully expects there may be some minor technical changes needed to the language as the final bill is drafted. Martin said that the provisions of Chapter 609 are known as criminal code. He suggested that the 609 reporting requirement be in a separate bill, so that the whole Working Group bill doesn't need to go through judicial committees. Auditor Otto said that the 609 reporting requirement would be drafted and carried separately from the other Working Group proposals.

- **Eliminate Authority to Pay Special Fund Funeral Benefits (C)**

Draft language was provided that would eliminate the authority to pay funeral benefits from the Special Fund. Zikmund made a motion to approve the draft language. Stroeing seconded the motion. Ganfield asked when the change would become effective. Zikmund amended his motion to include an effective date of January 1, 2009. Stroeing seconded the motion and it was adopted unanimously.

- **Add Definition of the Term “Ancillary Benefit” and Change Ancillary Benefit Language for Active Members (D)**

Draft language was provided that would define the term “Ancillary Benefit.” The language also would change how ancillary benefits for active members are calculated.

The benefits would be equal to the member's years of service times the benefit level. Ancillary benefits for active members would not be reduced, even if the member served for less than 20 years. Nelson made a motion to approve the draft language. Dietz seconded the motion. Ganfield recommended setting an effective date of January 1, 2009. Nelson amended his motion to incorporate the recommended effective date. Dietz seconded the motion and it was adopted unanimously.

- Change Definition of the Term "Surviving Spouse" (E)

Draft language was provided that would change the definition of the term "Surviving Spouse." The draft language provides relief associations with the option of defining a surviving spouse as the spouse of a deceased member that was legally married to the member at the time of separation or at the time of death. The language includes a default that would apply if the relief association does not make a selection in its bylaws. Ganfield made a motion to approve the draft language with an effective date of January 1, 2009. Stroeing seconded the motion and it was adopted unanimously.

- Allow Options for Deferred Interest Allocation (F)

Draft language was provided that eliminates the requirement that interest be allocated to deferred members on a monthly basis. Relief associations would be able to choose how interest is allocated. Allocation methods currently being used by relief associations are to pay based on completed calendar years of deferral, completed calendar months of deferral, or completed calendar days of deferral. Stroeing made a motion to approve the draft language that would be effective on the day following final enactment. Ganfield seconded the motion. The members discussed the "OSA Return" deferred interest option that will be expiring at the end of 2008. Martin suggested that the Group strike the language now, to avoid having to go back next year to clean up the provision. Auditor Otto said that the language could be amended to strike the "OSA Return" option. The Group voted on the motion and it was approved unanimously.

- Change Title to Assets Authority (G) and Uniform Broker Certification Form (H)

Draft language was provided that would change the Title to Assets provision to allow assets to be held by a security broker or its agent, provided there is SIPC insurance coverage. At the last meeting the Group discussed changing the Broker Certification Form to check for compliance with the SIPC coverage requirement. Auditor Otto explained that when the OSA began collecting Broker Certification Forms this year, the Pension Division saw variations in the forms submitted. The draft language in Exhibit H would require that relief associations use the Broker Certification Form that is provided by the OSA. This requirement would bring consistency. Copies of the proposed form were provided. The proposed form has been modified to be clearer and to check for SIPC coverage. Simon made a motion to approve the draft Title to Assets language and the Uniform Broker Certification Form language. Dietz seconded the motion. Martin reminded the Group that the Broker Certification requirement applies to other local public pension plans, as well. Martin also recommended revising the draft language to spell out Securities Investor Protection Corporation, rather than use an acronym. After

further discussion about suggestions to the form, the Group voted on the motion, which was adopted unanimously. Simon made a motion to reconsider the Title to Assets topic. Zikmund seconded the motion and it was adopted unanimously. Simon made a motion to make the draft language effective the day following final enactment. Ganfield seconded the motion and it was adopted unanimously. Dietz made a motion to approve the draft language with inclusion of the effective date. Roberts seconded the motion and it was adopted unanimously.

- **Change Application of the “Other Investments” Limit (I)**

Draft language was provided that would change the “Other Investments” limit by only including the allocated portions of index and mutual funds in the 20 percent cap. The language does not broaden the investment authority, it just changes the 20 percent limit to be an overall portfolio cap. Ganfield made a motion to approve the draft language. Stroeing seconded the motion. Ganfield amended his motion to be effective the day following final enactment. Stroeing seconded the amended motion, and it was adopted unanimously.

IV. Return to Service Issues

Under current law there are penalties for volunteer firefighters that retire and return to active service with the same volunteer fire department. Relief associations, especially in Greater Minnesota, have expressed concern with the limitations on resuming active service based on their recruitment and retention problems. Auditor Otto explained that this is a complex topic that is an issue with many areas of government, especially public safety. She hopes the Group will think about the topic and discuss with their members over the next several months. Recommendations for change could be made next year.

Martin explained that the Pension Commission is currently revisiting its Principles of Pension Policy. He also explained that the penalties for resuming active service after retiring are draconian, but reflected the policy and issue at the time the bill was passed. It was intended to send a message that would deter firefighters from rejoining. Martin also recommended that the Group discuss whether age 50 is still the appropriate age to allow volunteer firefighters to retire. It appears that in some cases the age 50 requirement, which is lower than in most “normal” jobs, may be an incentive for firefighters to retire and draw their service pension. Zikmund recommended restructuring the limits on resuming active service rather than changing the minimum retirement age. Several members of the Group recommended that benefits start over for members that rejoin after retiring. Auditor Otto said that at the next meeting the Group would come up with a list of the issues that could be taken to the firefighters to solicit information. This would give the Group a good starting point for discussions next year.

V. Other Business

- **Investment Policy Discussion**

This past year the OSA has provided education to relief associations on investment policies. A sample investment policy was created that is simple but includes asset

allocations, benchmarks, goals and objectives. The OSA would like to expand its training in this area and will include a benchmark comparison in the upcoming relief association report. Auditor Otto asked if there were any thoughts on what would be helpful for relief associations. The Group suggested that sample investment report cards and internal control policies would be helpful, especially if available on the website. Martin suggested providing relief associations with case studies that show real examples where investment policies have resulted in increased rates of return.

VI. Next Meeting Date

Auditor Otto asked if the Group wanted to hold a sixth meeting. At the meeting the Group could see a final version of the Working Group legislative proposals and discuss the return to service issues. Zikmund said that he could also provide an informational update on the Statewide Plan initiative. Stroeing asked that a list of future Working Group topics be provided, and that members could add topics to the list for next year. No one was opposed to holding a sixth meeting and it was decided that the meeting would be held on Tuesday, January 8, from 11:00 am to 1:00 pm.

Auditor Otto said that she would like to convene the Working Group again next year. She said that some positions on the Group may be opened up so that relief association members from around the State could apply to be on the Group. This process was used to select the city representatives on the Group this year. Auditor Otto asked that members who are interested in serving on the Group again let her know.

VII. Adjournment

The meeting was adjourned at 2:00 pm.

609.456 REPORTING TO STATE AUDITOR AND LEGISLATIVE AUDITOR REQUIRED.

Subdivision 1. **State auditor.** Whenever a public employee or public officer of a political subdivision, ~~or~~ charter commission, or local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A, 422A, 423B, 423C, or 424A, discovers evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds by a charter commission or any person authorized to expend public funds, the employee or officer shall promptly report to law enforcement and shall promptly report in writing to the state auditor a detailed description of the alleged incident or incidents. Notwithstanding chapter 13 or any other statute related to the classification of government data, the public employee or public officer shall provide data or information related to the alleged incident or incidents to the state auditor and law enforcement, including data classified as not public.

Subd. 2. **Legislative auditor.** Whenever an employee or officer of the state, University of Minnesota, or other organization listed in section 3.971, subdivision 6, discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or officer shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the legislative auditor a detailed description of the alleged incident or incidents.

1.1 A bill for an act
 1.2 relating to retirement; volunteer firefighter relief associations; requiring
 1.3 misconduct reporting by public accountants; authorizing brokers to hold relief
 1.4 association assets; clarifying certain authorized investment limitations; requiring
 1.5 broker certification of sufficient securities investor protection corporation
 1.6 insurance for broker-held assets; adding ancillary benefit definition; revising
 1.7 surviving spouse definition; modifying interest crediting for deferred service
 1.8 pensions; clarifying the limitation on ancillary benefits; disallowing special
 1.9 fund payment of funeral benefits; amending Minnesota Statutes 2006, sections
 1.10 6.67; 356A.06, subdivisions 1, 7, 8b; 424A.001, subdivision 6, by adding a
 1.11 subdivision; 424A.02, subdivisions 7, 9; 424A.05, subdivision 3.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 Section 1. Minnesota Statutes 2006, section 6.67, is amended to read:

1.14 **6.67 PUBLIC ACCOUNTANTS; REPORT OF EVIDENCE POINTING TO**
 1.15 **MISCONDUCT.**

1.16 Whenever a public accountant in the course of auditing the books and affairs of a
 1.17 county, city, town, school district, ~~or other public corporations, shall discover~~ corporation,
 1.18 or local public pension plan governed by section 69.77, sections 69.771 to 69.775, or
 1.19 chapter 354A, 422A, 423B, 423C, or 424A, discovers evidence pointing to nonfeasance,
 1.20 misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties
 1.21 and affairs, the public accountant shall promptly make a report of such discovery to the
 1.22 state auditor and the county attorney of the county in which the governmental unit is
 1.23 situated and the public accountant shall also furnish a copy of the report of audit upon
 1.24 completion to said officers. The county attorney shall act on such report in the same
 1.25 manner as required by law for reports made to the county attorney by the state auditor.

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

2.1 Sec. 2. Minnesota Statutes 2006, section 356A.06, subdivision 1, is amended to read:

2.2 Subdivision 1. **Authorized holder of assets; title to assets.** (a) Assets of a covered
2.3 pension plan may be held only by the plan treasurer, the State Board of Investment,
2.4 the depository agent of the plan, a security broker with insurance from the nonprofit
2.5 corporation created by the Securities Investor Protection Act, as amended, or its agent, or
2.6 of the State Board of Investment.

2.7 (b) Legal title to plan assets must be vested in the plan, the State Board of
2.8 Investment, the governmental entity that sponsors the plan, the nominee of the plan, or
2.9 the depository agent. The holder of legal title shall function as a trustee for a person or
2.10 entity with a beneficial interest in the assets of the plan.

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

2.12 Sec. 3. Minnesota Statutes 2006, section 356A.06, subdivision 7, is amended to read:

2.13 Subd. 7. **Expanded list of authorized investment securities.** (a) **Authority.**

2.14 Except to the extent otherwise authorized by law, a covered pension plan not described by
2.15 subdivision 6, paragraph (a), shall invest its assets only in accordance with this subdivision.

2.16 (b) **Securities generally.** The covered pension plan has the authority to purchase,
2.17 sell, lend, or exchange the securities specified in paragraphs (c) to (i), including puts and
2.18 call options and future contracts traded on a contract market regulated by a governmental
2.19 agency or by a financial institution regulated by a governmental agency. These securities
2.20 may be owned as units in commingled trusts that own the securities described in
2.21 paragraphs (c) to (i), including real estate investment trusts and insurance company
2.22 commingled accounts, including separate accounts.

2.23 (c) **Government obligations.** The covered pension plan may invest funds in
2.24 governmental bonds, notes, bills, mortgages, and other evidences of indebtedness if the
2.25 issue is backed by the full faith and credit of the issuer or the issue is rated among the top
2.26 four quality rating categories by a nationally recognized rating agency. The obligations in
2.27 which funds may be invested under this paragraph include guaranteed or insured issues
2.28 of (1) the United States, its agencies, its instrumentalities, or organizations created and
2.29 regulated by an act of Congress; (2) Canada and its provinces, provided the principal and
2.30 interest is payable in United States dollars; (3) the states and their municipalities, political
2.31 subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction
2.32 and Development, the Inter-American Development Bank, the Asian Development Bank,
2.33 the African Development Bank, or any other United States government sponsored
2.34 organization of which the United States is a member, provided the principal and interest is
2.35 payable in United States dollars.

3.1 (d) **Corporate obligations.** The covered pension plan may invest funds in bonds,
3.2 notes, debentures, transportation equipment obligations, or any other longer term
3.3 evidences of indebtedness issued or guaranteed by a corporation organized under the laws
3.4 of the United States or any state thereof, or the Dominion of Canada or any province
3.5 thereof if they conform to the following provisions:

3.6 (1) the principal and interest of obligations of corporations incorporated or organized
3.7 under the laws of the Dominion of Canada or any province thereof must be payable in
3.8 United States dollars; and

3.9 (2) obligations must be rated among the top four quality categories by a nationally
3.10 recognized rating agency.

3.11 (e) **Other obligations.** (1) The covered pension plan may invest funds in
3.12 bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage
3.13 participation certificates and pools, asset backed securities, repurchase agreements and
3.14 reverse repurchase agreements, guaranteed investment contracts, savings accounts, and
3.15 guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance
3.16 companies if they conform to the following provisions:

3.17 (i) bankers acceptances and deposit notes of United States banks are limited to those
3.18 issued by banks rated in the highest four quality categories by a nationally recognized
3.19 rating agency;

3.20 (ii) certificates of deposit are limited to those issued by (A) United States banks and
3.21 savings institutions that are rated in the highest four quality categories by a nationally
3.22 recognized rating agency or whose certificates of deposit are fully insured by federal
3.23 agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided
3.24 by the National Credit Union Administration;

3.25 (iii) commercial paper is limited to those issued by United States corporations or
3.26 their Canadian subsidiaries and rated in the highest two quality categories by a nationally
3.27 recognized rating agency;

3.28 (iv) mortgage participation or pass through certificates evidencing interests in pools
3.29 of first mortgages or trust deeds on improved real estate located in the United States where
3.30 the loan to value ratio for each loan as calculated in accordance with section 61A.28,
3.31 subdivision 3, does not exceed 80 percent for fully amortizable residential properties and
3.32 in all other respects meets the requirements of section 61A.28, subdivision 3;

3.33 (v) collateral for repurchase agreements and reverse repurchase agreements is
3.34 limited to letters of credit and securities authorized in this section;

3.35 (vi) guaranteed investment contracts are limited to those issued by insurance
3.36 companies or banks rated in the top four quality categories by a nationally recognized

4.1 rating agency or to alternative guaranteed investment contracts where the underlying
4.2 assets comply with the requirements of this subdivision;

4.3 (vii) savings accounts are limited to those fully insured by federal agencies; and

4.4 (viii) asset backed securities must be rated in the top four quality categories by a
4.5 nationally recognized rating agency.

4.6 (2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates
4.7 of deposit and collateralization agreements executed by the covered pension plan under
4.8 clause (1), item (ii).

4.9 (3) In addition to investments authorized by clause (1), item (iv), the covered
4.10 pension plan may purchase from the Minnesota Housing Finance Agency all or any part of
4.11 a pool of residential mortgages, not in default, that has previously been financed by the
4.12 issuance of bonds or notes of the agency. The covered pension plan may also enter into
4.13 a commitment with the agency, at the time of any issue of bonds or notes, to purchase
4.14 at a specified future date, not exceeding 12 years from the date of the issue, the amount
4.15 of mortgage loans then outstanding and not in default that have been made or purchased
4.16 from the proceeds of the bonds or notes. The covered pension plan may charge reasonable
4.17 fees for any such commitment and may agree to purchase the mortgage loans at a price
4.18 sufficient to produce a yield to the covered pension plan comparable, in its judgment,
4.19 to the yield available on similar mortgage loans at the date of the bonds or notes. The
4.20 covered pension plan may also enter into agreements with the agency for the investment
4.21 of any portion of the funds of the agency. The agreement must cover the period of the
4.22 investment, withdrawal privileges, and any guaranteed rate of return.

4.23 (f) **Corporate stocks.** The covered pension plan may invest funds in stocks or
4.24 convertible issues of any corporation organized under the laws of the United States or the
4.25 states thereof, any corporation organized under the laws of the Dominion of Canada or its
4.26 provinces, or any corporation listed on an exchange regulated by an agency of the United
4.27 States or of the Canadian national government, if they conform to the following provisions:

4.28 (1) the aggregate value of investments under this paragraph, plus paragraphs (g) and
4.29 (k), plus equity investments under paragraphs (h), (i), and (j), as adjusted for realized
4.30 gains and losses, must not exceed 85 percent of the market or book value, whichever is
4.31 less, of a fund; and

4.32 (2) investments must not exceed five percent of the total outstanding shares of
4.33 any one corporation.

4.34 (g) **Developed market foreign stocks investments.** In addition to investments
4.35 authorized under paragraph (f), the covered pension fund may invest in foreign stock sold

5.1 on an exchange in any developed market country that is included in the Europe, Australia,
5.2 and Far East Index.

5.3 (h) **Commingled or mutual investments.** The covered pension plan may invest
5.4 in index funds or mutual funds, including index mutual funds, through bank-sponsored
5.5 collective funds and shares of open-end investment companies registered under the
5.6 Federal Investment Company Act of 1940, ~~if the investments of the index or of the mutual~~
5.7 ~~fund~~ to the extent that these funds comply with paragraphs (c) to (j).

5.8 (i) **Real estate investment trust; related investments.** The covered pension plan
5.9 may invest in real estate investment trusts secured by mortgages or deeds of trust and
5.10 sold on an exchange, and insurance company commingled accounts, including separate
5.11 accounts, of a debt or equity nature.

5.12 (j) **Exchange traded funds.** The covered pension plan may invest funds in exchange
5.13 traded funds, subject to the maximums, the requirements, and the limitations set forth in
5.14 paragraphs (c) to (i), as applicable.

5.15 (k) **Other investments.** (1) In addition to the investments authorized in paragraphs
5.16 (b) to (j), and subject to the provisions in clause (2), the covered pension plan may invest
5.17 funds in:

5.18 (i) venture capital investment businesses through participation in limited partnerships
5.19 and corporations;

5.20 (ii) real estate ownership interests or loans secured by mortgages or deeds of trust
5.21 through investment in limited partnerships or bank sponsored collective funds;

5.22 (iii) regional and mutual funds through bank sponsored collective funds and
5.23 open-end investment companies registered under the Federal Investment Company Act
5.24 of 1940 ~~which do~~ to the extent that a fund or a portion of a fund does not qualify under
5.25 paragraph (h);

5.26 (iv) resource investments through limited partnerships, private placements, and
5.27 corporations; and

5.28 (v) international debt securities and emerging market equity securities.

5.29 (2) The investments authorized in clause (1) must conform to the following
5.30 provisions:

5.31 (i) the aggregate value of all investments made according to clause (1), including
5.32 allocated amounts of index and mutual funds, may not exceed 20 percent of the market
5.33 value of the fund for which the covered pension plan is investing;

5.34 (ii) there must be at least four unrelated owners of the investment other than the
5.35 covered pension plan for investments made under clause (1), item (i), (ii), (iii), or (iv);

6.1 (iii) covered pension plan participation in an investment vehicle is limited to 20
6.2 percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and

6.3 (iv) covered pension plan participation in a limited partnership does not include a
6.4 general partnership interest or other interest involving general liability. The covered
6.5 pension plan may not engage in any activity as a limited partner which creates general
6.6 liability.

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

6.8 Sec. 4. Minnesota Statutes 2006, section 356A.06, subdivision 8b, is amended to read:

6.9 Subd. 8b. **Disclosure of investment authority; receipt of statement.** (a) For
6.10 this subdivision, the term "broker" means a broker, broker-dealer, investment advisor,
6.11 investment manager, or third party agent who transfers, purchases, sells, or obtains
6.12 investment securities for, or on behalf of, a covered pension plan.

6.13 (b) Before a covered pension plan may complete an investment transaction with or
6.14 in accord with the advice of a broker, the covered pension plan shall provide annually to
6.15 the broker a written statement of investment restrictions applicable under state law to the
6.16 covered pension plan or applicable under the pension plan governing board investment
6.17 policy.

6.18 (c) A broker must acknowledge in writing annually the receipt of the statement of
6.19 investment restrictions and must agree to handle the covered pension plan's investments
6.20 and assets in accord with the provided investment restrictions. A covered pension plan
6.21 may not enter into or continue a business arrangement with a broker until the broker has
6.22 provided this written acknowledgment to the chief administrative officer of the covered
6.23 pension plan.

6.24 (d) If any portion of the plan's assets are held by a security broker or its agent, the
6.25 security broker or its agent must acknowledge in writing annually that sufficient insurance
6.26 from the Securities Investor Protection Corporation is available to cover the amount of
6.27 covered pension plan assets held by the security broker or its agent. The state auditor shall
6.28 prepare uniform acknowledgment forms to be used by covered pension plans and brokers
6.29 to meet the requirements of this subdivision.

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

6.31 Sec. 5. Minnesota Statutes 2006, section 424A.001, is amended by adding a
6.32 subdivision to read:

7.1 Subd. 1a. Ancillary benefit. "Ancillary benefit" means a benefit other than a service
7.2 pension that is permitted by law and that is provided for in the relief association bylaws.

7.3 EFFECTIVE DATE. This section is effective January 1, 2009.

7.4 Sec. 6. Minnesota Statutes 2006, section 424A.001, subdivision 6, is amended to read:

7.5 Subd. 6. **Surviving spouse.** For purposes of this chapter, and the governing bylaws
7.6 of any relief association to which this chapter applies, the term "surviving spouse" means
7.7 ~~any person who was the dependent spouse of a deceased active member or retired former~~
7.8 ~~member living with the member at the time of the death of the active member or retired~~
7.9 ~~former member for at least one year prior to the date on which the member terminated~~
7.10 ~~active service and membership~~ the spouse of a deceased member who was legally married
7.11 to the member either at the time of separation from active service with the fire department
7.12 or at death, as specified by the governing bylaws, or, if the governing bylaws do not
7.13 specify, at the time of death.

7.14 EFFECTIVE DATE. This section is effective January 1, 2009.

7.15 Sec. 7. Minnesota Statutes 2006, section 424A.02, subdivision 7, is amended to read:

7.16 Subd. 7. **Deferred service pensions.** (a) A member of a relief association is entitled
7.17 to a deferred service pension if the member:

7.18 (1) has completed the lesser of the minimum period of active service with the fire
7.19 department specified in the bylaws or 20 years of active service with the fire department;

7.20 (2) has completed at least five years of active membership in the relief association;
7.21 and

7.22 (3) separates from active service and membership before reaching age 50 or the
7.23 minimum age for retirement and commencement of a service pension specified in the
7.24 bylaws governing the relief association if that age is greater than age 50.

7.25 (b) The deferred service pension is payable when the former member reaches age
7.26 50, or the minimum age specified in the bylaws governing the relief association if that age
7.27 is greater than age 50, and when the former member makes a valid written application.

7.28 (c) A relief association that provides a lump sum service pension governed by
7.29 subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred
7.30 lump sum service pension during the period of deferral. If provided for in the bylaws,
7.31 interest must be paid in one of the following manners:

7.32 (1) at the investment performance rate actually earned on that portion of the assets
7.33 if the deferred benefit amount is invested by the relief association in a separate account

8.1 established and maintained by the relief association or if the deferred benefit amount is
8.2 invested in a separate investment vehicle held by the relief association; or

8.3 (2) at an interest rate of up to five percent, compounded annually, as set by the board
8.4 of directors and approved as provided in subdivision 10; or

8.5 ~~(3) at a rate equal to the actual time-weighted total rate of return investment~~
8.6 ~~performance of the special fund as reported by the Office of the State Auditor under~~
8.7 ~~section 356.219, up to five percent, compounded annually, and applied consistently for~~
8.8 ~~all deferred service pensioners.~~

8.9 A relief association may not use the method provided for in clause (3), until it has
8.10 modified its bylaws to be consistent with that clause.

8.11 (d) Interest under paragraph (c), clause (2) ~~or (3)~~, is payable ~~from the first day of~~
8.12 ~~the month next~~ following the date on which the municipality has approved the deferred
8.13 service pension interest rate established by the board of trustees ~~or from the first day of the~~
8.14 ~~month next following the date on which the member separated from active fire department~~
8.15 ~~service and relief association membership, whichever is later, to the last day of the month~~
8.16 ~~immediately before the month in which the deferred member becomes eligible to begin~~
8.17 ~~receipt of the service pension and applies for the deferred service pension.~~

8.18 (e) A relief association that provides a defined contribution service pension may,
8.19 if its governing bylaws so provide, credit interest or additional investment performance
8.20 on the deferred lump sum service pension during the period of deferral. If provided for
8.21 in the bylaws, the interest must be paid in one of the manners specified in paragraph
8.22 (c) or alternatively the relief association may credit any investment return on the assets
8.23 of the special fund of the defined contribution volunteer firefighter relief association in
8.24 proportion to the share of the assets of the special fund to the credit of each individual
8.25 deferred member account through the date on which the investment return is recognized
8.26 by and credited to the special fund.

8.27 (f) For a deferred service pension that is transferred to a separate account established
8.28 and maintained by the relief association or separate investment vehicle held by the relief
8.29 association, the deferred member bears the full investment risk subsequent to transfer and
8.30 in calculating the accrued liability of the volunteer firefighters relief association that pays
8.31 a lump sum service pension, the accrued liability for deferred service pensions is equal
8.32 to the separate relief association account balance or the fair market value of the separate
8.33 investment vehicle held by the relief association.

8.34 (g) The deferred service pension is governed by and must be calculated under
8.35 the general statute, special law, relief association articles of incorporation, and relief

9.1 association bylaw provisions applicable on the date on which the member separated from
9.2 active service with the fire department and active membership in the relief association.

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

9.4 Sec. 8. Minnesota Statutes 2006, section 424A.02, subdivision 9, is amended to read:

9.5 Subd. 9. **Limitation on ancillary benefits.** Any relief association, including
9.6 any volunteer firefighters relief association governed by section 69.77 or any volunteer
9.7 firefighters division of a relief association governed by chapter 424, may only pay
9.8 ancillary benefits which would constitute an authorized disbursement as specified in
9.9 section 424A.05 subject to the following requirements or limitations:

9.10 (1) with respect to a relief association in which governing bylaws provide for a
9.11 lump sum service pension to a retiring member, no ancillary benefit may be paid to any
9.12 former member or paid to any person on behalf of any former member after the former
9.13 member (i) terminates active service with the fire department and active membership
9.14 in the relief association; and (ii) commences receipt of a service pension as authorized
9.15 under this section; and

9.16 (2) with respect to any relief association, no ancillary benefit paid or payable to any
9.17 member, to any former member, or to any person on behalf of any member or former
9.18 member, may exceed in amount the total earned service pension of the member or former
9.19 member. The total earned service pension must be calculated ~~using~~ by multiplying
9.20 the service pension amount specified in the bylaws of the relief association and at the
9.21 time of death or disability, whichever applies, by the years of service credited to the
9.22 member or former member. The years of service must be determined as of (i) the date
9.23 the member or former member became entitled to the ancillary benefit; or (ii) the date
9.24 the member or former member died entitling a survivor or the estate of the member or
9.25 former member to an ancillary benefit. The ancillary benefit must be calculated (i) without
9.26 regard to whether the member or former member had attained the minimum amount of
9.27 service and membership credit specified in the governing bylaws; and (ii) without regard
9.28 to the percentage amounts specified in subdivision 2. For active members, the amount
9.29 of a permanent disability benefit or a survivor benefit must be equal to the member's
9.30 total earned service pension except that the bylaws of any relief association may provide
9.31 for the payment of a survivor benefit in an amount not to exceed five times the yearly
9.32 service pension amount specified in the bylaws on behalf of any member who dies before
9.33 having performed five years of active service in the fire department with which the relief
9.34 association is affiliated.

10.1 **EFFECTIVE DATE.** This section is effective January 1, 2009.

10.2 Sec. 9. Minnesota Statutes 2006, section 424A.05, subdivision 3, is amended to read:

10.3 Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements
10.4 from the special fund are not permitted to be made for any purpose other than one of
10.5 the following:

10.6 (1) for the payment of service pensions to retired members of the relief association if
10.7 authorized and paid under law and the bylaws governing the relief association;

10.8 (2) for the payment of temporary or permanent disability benefits to disabled
10.9 members of the relief association if authorized and paid pursuant to law and specified in
10.10 amount in the bylaws governing the relief association;

10.11 (3) for the payment of survivor benefits to surviving spouses and surviving children,
10.12 or if none, to designated beneficiaries, of deceased members of the relief association,
10.13 and if survivors and if no designated beneficiary, for the payment of a death benefit to
10.14 the estate of the deceased active firefighter, if authorized by and paid pursuant to law and
10.15 specified in amount in the bylaws governing the relief association;

10.16 ~~(4) for the payment of any funeral benefits to the surviving spouse, or if no surviving~~
10.17 ~~spouse, the estate, of the deceased member of the relief association if authorized by law~~
10.18 ~~and specified in amount in the bylaws governing the relief association;~~

10.19 ~~(5)~~ for the payment of the fees, dues and assessments to the Minnesota State Fire
10.20 Department Association, to the Minnesota Area Relief Association Coalition, and to
10.21 the state Volunteer Firefighters Benefit Association in order to entitle relief association
10.22 members to membership in and the benefits of these associations or organizations; and

10.23 ~~(6)~~ (5) for the payment of administrative expenses of the relief association as
10.24 authorized under section 69.80.

10.25 (b) For purposes of this chapter, a designated beneficiary must be a natural person.

10.26 **EFFECTIVE DATE.** This section is effective January 1, 2009.

division shall supersede any prior special law authorization relating to the provision of post-retirement increases.

Subd. 9b. Repayment of service pension in certain instances. If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person shall repay any previously received service pension.

Subd. 10. Local approval of bylaw amendments; filing requirements. (a) Each relief association to which this section applies shall file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor shall disqualify the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding pursuant to section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association pursuant to section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized pursuant to section 69.80 payable from the special fund of the relief association shall be effective until it has been ratified by the governing body or bodies of the appropriate municipalities. If the municipality is not required to provide financial support to the special fund pursuant to this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the prior surplus over full funding and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the future fire state aid to be received by the relief association.

(c) If the relief association pays only a lump sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification shall no longer be effective without municipal ratification, and any service pensions or ancillary benefits payable after that date shall be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

Subd. 11. [Repealed, 2000 c 461 art 16 s 13]

Subd. 12. Transfer of service credit to new district. Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' relief association shall be entitled to a nonforfeitable service pension from the