

Minnesota Volunteer Fire Relief Association Working Group Meeting

Office of the State Auditor
Wednesday, November 20, 2013
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 November 6, 2013 Meeting Minutes
- III. Discussion of New Audit Threshold**
Exhibit B.
- IV. Review of Draft Language for Technical Changes**
Exhibit C.
- V. Review of Supplemental Benefit Technical Change**
Exhibit D.
- VI. Discussion of Defined Contribution Plan Changes**
Exhibits E and F.
 - Inactive Members and Ancillary Benefits (Exhibit E).
 - Update for Conformity with Return to Service Law (Exhibit F).
- VII. Discussion of Fiduciary Duties and Responsibilities**
Exhibit G.
- VIII. Other Business**
- IX. Next Meeting**
Thursday, December 5, 2013
11 a.m. to 1 p.m.
Office of the State Auditor
- X. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by November 18, 2013.

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Wednesday, November 6, 2013
11 a.m. to 1 p.m.

Members Present

Steve Donney, City of Harmony Mayor
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)
Dennis Feller, City of Lakeville Finance Director
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)
Mark Rosenblum, Minnesota State Fire Department Association Representative (defined benefit lump sum plans)
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)

Others Present

Bill Braun, Woodbury Fire Relief Association Representative
Mary Chamberlain, Abdo, Eick & Meyers Representative
Aaron Dahl, Office of the State Auditor Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Office of the State Auditor Pension Director
Jim Jensen, Office of the State Auditor Pension Analyst
Michael Johnson, Office of the State Auditor Pension Analyst
David Kenney, Office of the State Auditor Assistant Legal Counsel
Amber Kollman, Office of the State Auditor Pension Intern
John Rudi, Wells Fargo Advisors Representative

The following motions were duly made, seconded and approved:

RESOLVED to approve the January 15, 2013, Working Group Meeting Minutes; and
RESOLVED to adopt the draft language for Technical Change #5, which corrects a statutory citation.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Introductions

The Working Group members and others in attendance introduced themselves and identified the community they are representing.

III. Review and Approval of Working Group Meeting Minutes

The members reviewed the January 15, 2013, meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Hemstad seconded the motion that was adopted unanimously. Feller abstained as he was not in attendance at the January 15 meeting.

IV. Working Group Process Discussion

- Working Group Meeting Schedule

The members reviewed the Working Group Meeting Schedule and shared any scheduling conflicts. Auditor Otto stated that an additional meeting may be scheduled in January, if necessary.

- Working Group Purpose Statement

The members reviewed the Working Group Purpose Statement, which is the same as the Statement agreed upon last year. No changes to the Purpose Statement were proposed.

- Working Group Process Statement

The members reviewed the Working Group Process Statement, which is the same as the Statement agreed upon last year. The members agreed that unanimous consent be required for a proposal to move forward. A topic can be reconsidered if there is only one dissenting member. No changes to the Process Statement were proposed.

- Working Group Membership List

The members reviewed the Working Group membership list and forwarded contact information changes to Hennessy Allen. Auditor Otto reminded the members that the Membership List is posted on the Office of the State Auditor's website.

V. Discussion of Working Group Topic Suggestions

Auditor Otto explained that topic suggestions have been received for the Working Group's consideration. Before reviewing the list of submitted topic suggestions, Auditor Otto asked the members if they had any topics for consideration.

Ganfield said that he was contacted by a relief association that was hoping the Office of the State Auditor's annual Financial and Investment Report of Volunteer Fire Relief Associations could be released earlier. Auditor Otto said that the request would be taken under advisement, but that because relief associations have until November 30 to file

reports covering the previous calendar year it makes it difficult to release the report earlier than is currently scheduled.

Donney asked that the Group be provided with information regarding the impact of the increased audit threshold. The audit threshold was increased from \$200,000 to \$500,000 beginning with reports for the 2013 calendar year. Donney asked how many relief associations will no longer be required to have an audit. Auditor Otto said that information regarding the audit threshold change would be provided during an upcoming meeting.

Roed raised the issue of the new supplemental state aid which, due to a mistake in how the legislation was drafted, is not currently payable to relief associations affiliated with an independent nonprofit firefighting corporation. Zikmund said that the Minnesota State Fire Chiefs Association is working to address the issue during the upcoming legislative session. The Working Group members agreed to monitor this topic and possibly make a statement of support regarding any legislative fix to the Legislative Commission on Pensions and Retirement.

Rosenblum asked that the Group continue its discussions on deferred interest for defined benefit plans. Several clarifications proposed by the Working Group were passed into law during the 2013 legislative session pertaining to how interest is paid when a relief association's board of trustees sets the interest rate. The new law requires that the interest rates be set on a going-forward basis. Rosenblum asked that the Group discuss changes so that a board of trustees has flexibility to set an interest for deferred members after the relief association's actual interest rate for the year is known.

Braun discussed some issues related to relief association governance and independence.

Hennessy Allen walked through the list of proposed topics that had been submitted for the Working Group's consideration. The members discussed the proposed topics and prioritized their work for the season.

VI. Review of Draft Language for Technical Changes

Auditor Otto explained Technical Change #1 attempts to make clear that cities whose firefighters are all full-time firefighters covered by the PERA Police and Fire Plan for pension purposes are not required to file a financial report with the Office of the State Auditor. Martin provided some suggestions regarding the draft language. The draft language will be revised and revisited at a future meeting.

Kenney explained Technical Change #2 clarifies that the portfolio limit of 15 percent applies to all international debt investments and emerging market equity investments. The draft changes the term "emerging market" to "all non-developed market" to make clear that all equities other than those of developed markets are subject to the limit. The members discussed whether the term "developing" is a more commonly used industry

term and should be used instead of “all non-developed market.” The members also discussed whether the term “developing” could be defined. Additional information will be obtained regarding this proposed change and it will be revisited at a future meeting.

Hennessy Allen explained that Technical Change #3 deletes the word “qualified” from the term “qualified municipality” that is used in two of the volunteer fire relief association statutes. The term is not defined and the word “qualified” is unnecessary and confusing. The members wanted to make sure that removing the word “qualified” would not impact a relief association’s qualification for fire state aid. The proposed change will be revisited after it is confirmed the change would not affect a relief association’s qualification for fire state aid.

Kenney discussed Technical Change #4, which clarifies that the five-percent portfolio limitation on below-investment-grade bonds applies to the aggregate of domestic and international below-investment-grade bonds. The members discussed whether the five-percent limit was too low. A change to the portfolio limit would be a separate substantive change that the Group could choose to discuss. The members were in agreement with the concept of the technical change to clarify the limit, and agreed to revisit it at a future meeting.

Hennessy Allen explained that Technical Change #5 corrects a statutory citation. A few years ago the numbering changed when the investment statutes were updated, and a reference was missed. Roed made a motion to adopt the technical change. Duncan seconded the motion, which was adopted unanimously.

VII. Other Business

There was no other business.

VIII. Next Meeting

Wednesday, November 20, 2013

11:00 a.m. to 1:00 p.m.

Office of the State Auditor

IX. Adjournment

The meeting was adjourned shortly before 1:00.

Exhibit B Audit Threshold Information

Topic:

During the 2013 legislative session, the threshold which triggers the requirement for a relief association to be audited was changed. Under the new law, relief associations “with assets of at least \$500,000 or liabilities of at least \$500,000 in the prior year or in any previous year” are required to have an audit report. (Minn. Stat. § 69.051, subd. 1.) Previously, relief associations with assets or liabilities of at least \$200,000 were required to have an audit report.

Reporting Information:

Relief associations with assets and liabilities that do not reach the audit threshold are required to have their financial reporting form attested to by an accountant. (Minn. Stat. § 69.051, subd. 1a.) The reporting forms and attestation are due to the Office of the State Auditor annually by March 31.

Relief associations with assets or liabilities above the audit threshold are required to submit their reporting forms and audit report to the Office of the State Auditor annually by June 30. After a relief association exceeds the new audit threshold, it maintains the audit requirement and the June 30 reporting deadline, even if the association’s assets and liabilities subsequently drop below the threshold.

Reporting Practice:

The number of relief associations required to have an audit and the number of relief associations required to have an attestation for the past several reporting years are listed below. The 2013 reporting year is the first year that the new \$500,000 threshold is in effect. Note that the 2013 reporting year numbers are preliminary and could change slightly after the 2012 reporting cycle is complete.

Reporting Year	Attestation Only Required	Audit Required
2013	494	190
2012	202	482
2011	225	488
2010	225	492
2009	244	473
2008	247	470
2007	256	461
2006	287	428
2005	322	392

A summary of form submission trends for the 2012 reporting year is provided below. The majority of relief associations that have the attestation requirement instead of being audited filed their annual reporting forms to the Office of the State Auditor late, with 45 percent of the associations filing at least two months late. In contrast, nearly half of relief associations with the audit requirement filed early or on time, and only 16 percent filed at least two months late. Late reporting may result in a relief association's receipt of its fire state aid to be delayed, which in turn results in missed investment opportunities.

Attestation Only Required		Audit Required	
Days Early/Late	Percent of Plans	Days Early/Late	Percent of Plans
At Least 30 Days Early	2%	At Least 30 Days Early	15%
0 to 30 Days Early	16%	0 to 30 Days Early	33%
1 to 30 Days Late	27%	1 to 30 Days Late	26%
31 to 60 Days Late	10%	31 to 60 Days Late	10%
61 to 90 Days Late	5%	61 to 90 Days Late	5%
At Least 91 Days Late	40%	At Least 91 Days Late	11%

Many relief associations will be required to report earlier during 2014; in March instead of June. The Office of the State Auditor will continue to provide education about this reporting change. Assistance from the Working Group members in spreading the word about the change among relief associations in your communities will also be appreciated.

Exhibit C Technical Changes

Technical Change #2:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

...

Subd. 7. **Expanded list of authorized investment securities.**

...

(h) **Other investments.** (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), an expanded list plan is authorized to invest funds in:

- (i) equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;
- (ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;
- (iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and
- (iv) international securities.

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

- (i) the aggregate value of all investments made under clause (1), items (i), (ii), and (iii), may not exceed 35 percent of the market value of the fund for which the expanded list plan is investing;
- (ii) there must be at least four unrelated owners of the investment other than the expanded list plan for investments made under clause (1), item (i), (ii), or (iii);
- (iii) the expanded list plan's participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii);
- (iv) the expanded list plan's participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The expanded list plan may not engage in any activity as a limited partner which creates general liability; and
- (v) for volunteer firefighter relief associations, ~~emerging~~ all developing market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

Technical Change #3:

424A.02 DEFINED BENEFIT RELIEF ASSOCIATIONS; SERVICE PENSIONS.

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Subd. 3. Flexible service pension maximums.

(a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 424A.092, subdivision 4, or 424A.093, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit relief association shall calculate and certify to the governing body of the applicable ~~qualified~~ municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing includes any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 424A.092, subdivision 2; 424A.093, subdivisions 2 and 4; or 424A.094, subdivision 2, if any.

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any ~~qualified~~-municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account may not be made for any purpose except:

- (1) payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its firefighters to membership in and the benefits of these state associations;
- (2) payment of the cost of purchasing and maintaining needed equipment for the fire department; and
- (3) payment of the cost of construction, acquisition, repair, or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A ~~qualified~~-municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department, which does not participate in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

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Technical Change #4:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

...

Subd. 7. Expanded list of authorized investment securities.

...

(h) **Other investments.** (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), an expanded list plan is authorized to invest funds in:

(i) equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(iv) international securities.

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

(i) the aggregate value of all investments made under clause (1), items (i), (ii), and (iii), may not exceed 35 percent of the market value of the fund for which the expanded list plan is investing;

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

(iii) the expanded list plan's participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii);

(iv) the expanded list plan's participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The expanded list plan may not engage in any activity as a limited partner which creates general liability; ~~and~~

(v) the aggregate value of all unrated obligations and obligations that are not rated among the top four quality categories by a nationally recognized rating agency authorized by clause 1, item (iv) and paragraph (e) shall not exceed five percent of the covered plan's market value; and

(vi) for volunteer firefighter relief associations, emerging market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

Exhibit D
Supplemental Benefit Technical Change

**424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER
FIREFIGHTERS.**

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Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer firefighters' relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. This benefit is an amount equal to ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association and the retirement plan must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed \$2,000.

(c) For purposes of this section, the regular lump-sum distribution means the pre-tax lump-sum distribution excluding any interest that may have been earned during a volunteer firefighter's period of deferral.

(d) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.

Exhibit E
Defined Contribution Plan
Inactive Members and Ancillary Benefits

Issue:

For defined contribution plans, statute specifies how ancillary (disability and survivor) benefits for active and deferred members must be calculated. Questions have arisen regarding the eligibility of non-vested members who have separated from active service and the eligibility of inactive members to receive ancillary benefits.

Defined contribution plans are required to keep the accounts of non-vested members who separate from active service intact for at least five years before being forfeited. Should a beneficiary of a non-vested member who passes away during the five-year waiting period before the member's account is forfeited be eligible for a survivor benefit?

Inactive members include members who are on a leave of absence or who have a break in service. These members have not yet separated from active service, but are not currently accruing active service credit as they are unable to meet minimum service and membership requirements. How should ancillary benefits be handled for inactive members should they become disabled or pass away while in inactive status?

424A.016 DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.

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Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested and nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c)(1) If a survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(i) as a survivor benefit to the surviving spouse of the deceased firefighter;

(ii) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(iii) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(iv) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

(2) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a trust created under chapter 501B may be a designated beneficiary. If a trust payable to the surviving children organized under chapter 501B has been established as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding the requirements of this section.

Exhibit F
Defined Contribution Plan
Update for Conformity with Return to Service Law

Issue:

The statute that defines how accounts must be established and maintained for members of a defined contribution plan requires that allocations be made for all years of service (except for caps on service credit if provided for in the bylaws). However, under the return-to-service statute, amounts previously forfeited are not reinstated if a defined contribution plan member resumes active service and membership. The draft change below corrects the possible conflict between these two statutes.

424A.016 DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.

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Subd. 4. **Individual accounts.** (a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

(1) any amounts of fire state aid received by the relief association;

(2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and

(3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) If the bylaws so permit and as the bylaws define, the relief association may credit any investment return on the assets of the special fund to the accounts of inactive members.

(d) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. Amounts forfeited under subdivision 4 prior to a resumption of active service and membership under section 424A.01, subdivision 6 remain forfeited and will not be reinstated upon the

resumption of active service and membership. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

(e) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

(f) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

Exhibit G

Fiduciary Duties and Responsibilities

Topic

Each trustee of a volunteer fire relief association fills the role and carries the responsibilities of a fiduciary to the association. The Merriam-Webster dictionary defines the word fiduciary as “relating to or involving trust (such as the trust between a customer and a professional).”

As fiduciaries, each trustee on a relief association’s board owes a duty to the members, to the taxpayers, and to the State that activities are carried out in accordance with State law. A fiduciary shall act in good faith and exercise that degree of judgment and care, under the circumstances, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of plan capital (Special Fund) as well as the probable investment return to be derived from the assets.

A trustee may not delegate his or her fiduciary duty. Relief association trustees are not relieved of their fiduciary duties by hiring professional consultants or investment advisors. Relief association trustees should ask questions of professional consultants and monitor investment performance.

A fiduciary must make a reasonable effort to obtain the knowledge and skills sufficient to perform fiduciary duties adequately. A relief association’s board of trustees is required to develop and periodically revise a program for the continuing education of its board members. The program must be designed to provide trustees with the knowledge and skills needed to enable them to perform their fiduciary activities.

Resources

Relief associations have options for providing no- and low-cost training to its trustees. These options include:

- Asking the association’s broker or investment advisor to attend a board meeting to provide an update on the investment markets, discuss new investment products or trends, review the association’s portfolio and investment performance, review the Investment Report Card provided by the Office of the State Auditor, and to discuss any recent statutory changes;
- Asking the association’s accountant or auditor to attend a board meeting to provide an update on the association’s finances and funding, to discuss any audit concerns or management notes, and to discuss any upcoming changes in accounting standards;

- Reviewing educational materials provided by the Office of the State Auditor, including the weekly E-Update, monthly Pension Division Newsletter, annual Legislative Update, Sample Bylaw Guides, and recorded online training videos;
- Subscribing to and reading educational materials related to investing, accounting, or other topics pertinent to the administration of a pension plan; and
- To consider training opportunities provided by the Fire Service Organizations and through the State Fire Schools.

Requirements

356A.02 FIDUCIARY STATUS AND ACTIVITIES.

Subdivision 1. **Fiduciary status.** For purposes of this chapter, the following persons are fiduciaries:

- (1) any member of the governing board of a covered pension plan;
- (2) the chief administrative officer of a covered pension plan or of the State Board of Investment;
- (3) any member of the State Board of Investment; and
- (4) any member of the Investment Advisory Council.

Subd. 2. **Fiduciary activity.** The activities of a fiduciary identified in subdivision 1 that must be carried out in accordance with the requirements of section 356A.04 include, but are not limited to:

- (1) the investment and reinvestment of plan assets;
- (2) the determination of benefits;
- (3) the determination of eligibility for membership or benefits;
- (4) the determination of the amount or duration of benefits;
- (5) the determination of funding requirements or the amounts of contributions;
- (6) the maintenance of membership or financial records;
- (7) the expenditure of plan assets; and
- (8) the selection of financial institutions and investment products.

356A.04 GENERAL STANDARD OF FIDUCIARY CONDUCT.

Subdivision 1. **Duty.** A fiduciary of a covered pension plan owes a fiduciary duty to:

- (1) the active, deferred, and retired members of the plan, who are its beneficiaries;
 - (2) the taxpayers of the state or political subdivision, who help to finance the plan;
- and
- (3) the state of Minnesota, which established the plan.

Subd. 2. **Prudent person standard.** A fiduciary identified in section 356A.02 shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

356A.05 DUTIES APPLICABLE TO ALL ACTIVITIES.

(a) The activities of a fiduciary of a covered pension plan must be carried out solely for the following purposes:

- (1) to provide authorized benefits to plan participants and beneficiaries;
- (2) to incur and pay reasonable and necessary administrative expenses; or
- (3) to manage a covered pension plan in accordance with the purposes and intent of the plan document.

(b) The activities of fiduciaries identified in section 356A.02 must be carried out faithfully, without prejudice, and in a manner consistent with law and the plan document.

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

...

Subd. 3. **Absence of personal profit.** No fiduciary may personally profit, directly or indirectly, as a result of the investment or management of plan assets. This subdivision, however, does not preclude the receipt by a fiduciary of reasonable compensation, including membership in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to the plan.

356A.13 CONTINUING FIDUCIARY EDUCATION.

Subdivision 1. **Obligation of fiduciaries.** A fiduciary of a covered pension plan shall make reasonable effort to obtain knowledge and skills sufficient to enable the fiduciary to perform fiduciary activities adequately. At a minimum, a fiduciary of a covered pension plan shall comply with the program established in accordance with subdivision 2.

Subd. 2. **Continuing fiduciary education program.** The governing boards of covered pension plans shall each develop and periodically revise a program for the continuing education of any of their board members and any of their chief administrative officers who are not reasonably considered to be experts with respect to their activities as fiduciaries. The program must be designed to provide those persons with knowledge and skills sufficient to enable them to perform their fiduciary activities adequately.