

**Minnesota Volunteer Fire Relief Association
Working Group Meeting**

Office of the State Auditor
Tuesday, December 4, 2012
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 28, 2012 Meeting Minutes

- III. Discussion of Defined Benefit Plan Deferred Interest**
Exhibits B and C.

- IV. Discussion of Audit Threshold and Requirements**
Exhibit D.

- V. Discussion of Service Credit Calculations**
Exhibit E.

- VI. Other Business**

- VII. Next Meeting**
Tuesday, December 18, 2012
11 a.m. to 1 p.m.
Office of the State Auditor

- VIII. 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 December 3, 2012.

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Monday, November 19, 2012
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)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution 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

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)
Tim Simon, Elk River City Finance Director

Others Present

Bill Braun, Woodbury Fire Relief Association Representative
Mary Chamberlain, Abdo, Eick & Meyers Representative
Aaron Dahl, Office of the State Auditor Pension Analyst
Anne Finn, League of Minnesota Cities Representative
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
Deb Jezierski, HLB Tautges Redpath Representative
Michael Johnson, Office of the State Auditor Pension Analyst

The following motions were duly made, seconded and approved:

- RESOLVED to approve the November 19, 2012, Working Group Meeting Minutes;
- RESOLVED to approve in principle technical changes to include references to the defined contribution plans (Section 424A.016) in the relief association statutes and fire state aid program;
- RESOLVED to adopt the draft language that streamlines the deferred service pension sections for defined contribution plans and defined benefit plans by referencing the eligibility requirements of the service pension sections;
- RESOLVED to take no action on the topic of municipal approval requirements for relief associations affiliated with an independent nonprofit firefighting corporation; and

RESOLVED to adopt the draft technical language for relief associations affiliated with an independent nonprofit firefighting corporation that clarifies which statutes apply to lump sum plans and which apply to monthly plans.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the November 19, 2012, meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Johnston seconded the motion that was adopted unanimously.

III. Discussion of Deducting Membership Dues from Payroll

Auditor Otto explained that some relief associations have arrangements with their affiliated city to automatically deduct relief association membership dues from the firefighters' per-call payments. These arrangements provide greater efficiency and lessen the administrative burden for the relief association. The deductions are processed through the city payroll and transferred to the affiliated relief association. State law only allows certain items to be deducted from an employee's payroll, and relief association membership dues are not included on the list of authorized deductions. Finn said that the League of Minnesota Cities intends to pursue a legislative change to authorize payroll deductions for relief association membership dues. Each individual firefighter would have the ability to choose whether to authorize the dues deduction from the firefighter's payroll. The Working Group members reviewed the League of Minnesota City's proposal and had no objections.

The members also reviewed draft language for several technical changes that are needed to include the defined contribution plans in the relief association pension statutes and the fire state aid program. When Chapter 424A was reorganized a few years ago the defined contribution plans were moved to a new section of statute. The technical changes reference this new defined contribution plan section. Martin offered some drafting suggestions. Roed made a motion to adopt in principle the technical changes. Johnston seconded the motion that was adopted unanimously.

IV. Discussion of Pension Eligibility Requirements

The members reviewed a list of eligibility requirements that a relief association member must meet to be eligible for a service pension, and a similar list of requirements that a member must meet to be eligible for a deferred service pension. The members agreed that the statutes could be streamlined if the deferred service pension section refers to the requirements found in the service pension section, rather than a separate set of eligibility requirements. Donney made a motion to adopt the draft language that clarifies the deferred service pension eligibility requirements for defined contribution plans and defined benefit plans. Jaeger seconded the motion that was adopted unanimously.

V. Discussion of Municipal Ratification Requirements

Auditor Otto explained that the definition of “municipality” may cause some problems for relief associations affiliated with an independent nonprofit firefighting corporation. Based on the definition, it appears that relief associations affiliated with an independent nonprofit firefighting corporation may be required to obtain approval from each municipality that contracts with the firefighting corporation for the association to make benefit level changes or other amendments to its bylaws. The members discussed reasons that a fire department may choose an independent nonprofit firefighting corporation model rather than a joint powers model. Roed said that the State Fire Marshal’s Office is seeing an increase in interest among fire departments to move to one of these two types of models, and that local communities have their own reasons for which model they choose. The State Fire Marshal’s Office is looking at ways to create more efficient firefighting models. The members decided not to take any action on this issue at this time, as additional research is needed on the topic and changes from the State Fire Marshal’s Office may be forthcoming. Ganfield made a motion to take no action on this topic. Donney seconded the motion that was adopted unanimously.

The members reviewed some technical corrections to the section of statute that pertains to the relief associations affiliated with an independent nonprofit firefighting corporation. The technical changes are needed for consistency, and to clarify which statutory sections apply to defined benefit lump sum plans and which apply to defined benefit monthly plans. Ganfield made a motion to approve the draft technical language. Rosenblum seconded the motion that was adopted unanimously.

VI. Discussion of Defined Benefit Plan Deferred Interest

Auditor Otto explained that there are three issues before the Group related to deferred interest for defined benefit plan members. The first issue is a technical issue. Last year, the Group decided to establish default calculation methods if the bylaws of a relief association authorize the payment of deferred interest but don’t specify the interest payment beginning and ending dates. There was a typo when the Working Group bill was assembled and the language that the Group approved for the defined contribution plans was accidentally also used for the defined benefit plans. Optional Change #1 in the draft language would correct this mistake.

The second issue relates to when municipal ratification is required for deferred interest rates that are set by the relief association’s board of trustees. There are two places within the statute that refer to municipal ratification. One provision always requires municipal ratification, while the other provision only requires ratification if the relief association is underfunded. These provisions should be updated so that it is clear when municipal ratification is required.

The final issue relates to the effective date of rates of return established by a relief association’s board of trustees. Some relief associations wait until the end of the year to set an interest rate and base the rate on the association’s actual investment performance

for the year. Relief associations cannot set deferred interest rates retroactively. The rates can become effective on the date that they are approved, or a date in the future. If a deferred interest rate becomes effective mid-year, a relief association would need to manually calculate the deferred member's accrued liability and pension calculation. These manual calculations oftentimes result in errors.

The members discussed at length the municipal ratification and rate of return effective date issues and agreed to revisit both topics at the next Working Group meeting.

VII. Other Business

There was no other business.

VIII. Next Meeting

Tuesday, December 4, 2012

11 a.m. to 1 p.m.

Office of the State Auditor

IX. Adjournment

The meeting was adjourned shortly after 1:00.

Exhibit B

Deferred Interest Types

	Lump-Sum	Defined Contribution	Monthly/Lump-Sum Combination
No Interest Paid	386	24	15
Separate Account	18	16	
Separate Vehicle	26	10	
Board Set Return	146		2
DC Full Gains/Losses		40	
Total	576 (of 587 plans)	90 (of 91 plans)	17 (of 18 plans)

* Data as of November 29, 2012

1. Setting up a Separate Investment Account

Under this option, the relief association establishes a separate investment account for the amount payable to a deferred member. The separate account is maintained separately from the other assets of the relief association, but is still governed by the relief association board of trustees and is still reported as an association asset. A member's deferred benefit amount is transferred to the separate investment account when the member separates from active service and membership. The relief association board of trustees determines how the account is invested. A deferred member with assets pooled in the separate investment account receives interest at the investment performance rate actually earned on the account. The deferred member bears the full investment risk subsequent to transfer. When the member retires, the deferred service pension is equal to the member's portion of the separate investment account.

This option is available to all relief association plan types.

2. Setting up a Separate Investment Vehicle

Under this option, the relief association establishes a separate investment vehicle for the amount payable to each deferred member. The separate investment vehicle is held separately from the other assets of the relief association, but is still governed by the relief association board of trustees and is still reported as association assets. A member's deferred benefit amount is invested in the separate investment vehicle when the member separates from active service and membership. The relief association board of trustees selects the separate investment vehicle for each deferred member. A deferred member receives interest at the investment performance rate actually earned on the investment vehicle. The deferred member bears the full investment risk subsequent to transfer. When the member retires, the deferred service pension is equal to the fair market value of the member's separate investment vehicle.

This option is available to all relief association plan types.

3. Allowing the Board to Set Interest up to 5%

Under this option, the relief association board of trustees determines the rate of interest for deferred members, between zero and five percent, compounded annually. Interest is payable following the date on which the municipality has approved the deferred service pension interest rate. The board of trustees has flexibility to change the interest rate annually, for example, based on actual investment performance, or it could choose to select an interest rate and leave it unchanged for

several years. Depending upon how the bylaws are drafted, interest rates for a deferred member can fluctuate each time the board of trustees establishes a new rate or the interest rate can be fixed based on the rate in effect when the member separated from active service and membership.

This option is available to lump sum plans and monthly/lump sum combination plans only.

4. Crediting Full Investment Gains and Losses

Under this option, a deferred member of a defined contribution plan receives investment allocations in the same manner as the active members. Each deferred member's account balance is credited with net investment gains or losses at the rate actually earned by the relief association on the investment of special fund assets.

This option is available to defined contribution plans only.

Exhibit C

DB Plan Deferred Interest

Issues:

1. Last year, the Working Group decided to establish default calculation methods if the bylaws of a relief association authorize the payment of deferred interest but don't specify the interest payment beginning and ending dates. The Working Group decided that for defined benefit relief associations that pay interest to deferred members at a variable interest rate, up to five percent as set by the board, or at the actual rate earned on a separate investment account, the default would be to calculate interest for each completed calendar month that the member was deferred.

There was a typo when the bill was put together, and the deferred interest language that the Working Group adopted for the defined contribution plans was accidentally also used for the defined benefit plans. Optional Change #1 below would correct this mistake.

2. There has been confusion about when municipal ratification is required for deferred interest rates that are set by the relief association's board. Paragraphs (c)(3) and (d) below seem to conflict. If the intent is to always require municipal ratification of the deferred interest rates, the language "as provided in subdivision 10" in paragraph (c)(3) should be removed. If the intent is to only require municipal ratification if the relief association is not fully funded, then the language in paragraph (d) should be changed.
3. When a relief association elects to pay deferred interest based on a rate set by the board, problems sometimes arise with the interest rate's effective date. Some relief associations wait until the end of the year to see how their investments performed, and then set the deferred interest rate based on the association's investment performance. Relief associations cannot establish deferred interest rates retroactively, however. The interest rates can become effective on the date that they are approved, or a date in the future. An optional change to avoid this confusion and to make deferred service pension calculations easier and more consistent is to make the deferred interest rate become effective on the upcoming January 1. The rate would be in effect until the relief association board sets a new rate, which would become effective on the January 1 following the rate's approval. Optional Change #2 below would make this revision.

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

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

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

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

(3) separates from active service and membership. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

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

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

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

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(3) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause (3), is payable **(Optional Change #2)** beginning on January 1 following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

(e) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), **(Optional Change #1)** beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension first day of the month next following the date on which the member separates from active service and membership and ending on the last day of the

month immediately before the month in which the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

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

(g) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Exhibit D

Audit Threshold and Requirements

Topic:

Reconsider the \$200,000 audit threshold and requirement.

Current Law:

Relief associations “with assets of at least \$200,000 or liabilities of at least \$200,000 in the prior year or in any previous year” are required to submit an audit report. (Minn. Stat. § 69.051, subd. 1.)

A city with a population of 2,500 or less and with the combined office of clerk and treasurer must have an annual audit for 2011 if its annual revenue is greater than \$198,000. A city with a combined office of clerk and treasurer and annual revenue of \$198,000 or less must have an Agreed-Upon Procedures engagement once every five years.

A city with a population over 2,500 must have an annual audit performed.

A town with a population over 2,500 and 2011 annual revenue greater than \$882,000 must have an annual audit.

A town with a population of 2,500 or less and with the combined office of clerk and treasurer must have an annual audit for 2011 if its annual revenue was greater than \$198,000. A town with annual revenue of \$198,000 or less must have an Agreed-Upon Procedures engagement once every five years.

Current Practice:

Number of relief associations with and without the audit requirement for the past several years.

Year	Number Under \$200,000	Number Over \$200,000
2011	225	488
2010	225	492
2009	244	473
2008	247	470
2007	256	461
2006	287	428
2005	322	392

Summary of form submission trends for the 2011 Reporting Year.

Plans Under \$200,000		Plans Over \$200,000	
Days Early/Late	Percent of Plans	Days Early/Late	Percent of Plans
At Least 30 Days Early	0%	At Least 30 Days Early	11%
0 to 30 Days Early	15%	0 to 30 Days Early	43%
1 to 30 Days Late	23%	1 to 30 Days Late	14%
31 to 60 Days Late	12%	31 to 60 Days Late	13%
61 to 90 Days Late	11%	61 to 90 Days Late	7%
At Least 91 Days Late	39%	At Least 91 Days Late	12%

Options:

1. Make no changes and provide education on the importance of an audit.
2. Change the audit threshold; keep it at a fixed amount.
3. Change the audit threshold to a variable amount that increases based on inflation or some other factor.

Exhibit E

Service Credit Calculations

Topic:

Relief associations award service credit for pension purposes based on each completed year of active service that a member has served with the affiliated fire department or, if the association's bylaws authorize it, to prorate service credit on a monthly basis. Relief associations do not, however, have authority to award service credit on a quarterly basis.

If a relief association's bylaws authorize the monthly proration of service credit, the bylaws may define what constitutes a "month." The definition must require a calendar month to have at least 16 days of active service. If the bylaws allow service credit to be prorated on a monthly basis but do not define a "month," a "month" must be a completed month of active service measured from the member's date of entry to the same date in the subsequent calendar month.

Some relief associations have expressed an interest in prorating service credit on a quarterly or semi-annually basis. Other relief associations have inquired about allowing the bylaws to define what constitutes a "year," and setting the definition as a calendar year with at least 350 days of active service, for example.

Current Law:

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

Subd. 4. Individual accounts.

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(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. 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.

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

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special

fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly 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. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.