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Bylaw Guide

For a Defined-Contribution Fire Relief Association Affiliated
with a City Fire Department

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STATE OF MINNESOTA
OFFICE OF THE STATE AUDITOR

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IMPORTANT INFORMATION ABOUT THIS GUIDE

This guide is intended only for use by a **defined-contribution** fire relief association **affiliated with a city fire department**. Additional [bylaw guides](#) for other types of relief associations are provided on the [Office of the State Auditor's \(OSA\) website](#). **The content on this page is provided for informational purposes only and is not intended to be incorporated into a relief association's bylaws.**

This document is provided for a relief association's board of trustees to use as a guide in developing, updating, and revising bylaws customized for its association. The bylaw provisions within this guide are intended to assist a relief association in meeting its minimum statutory requirements, and to provide the framework for developing custom bylaws. In general, a member's benefits are based on the bylaws in effect on the date of the member's separation from active fire department service and relief association membership. The bylaw provisions are subject to revision.

This bylaw guide is not all inclusive. Areas not included in this guide that a relief association may wish to address include combined service pensions for firefighters with service in more than one volunteer fire department, charitable gambling funds, membership class definitions, and disability benefit qualification. Those using this guide should be sure to read the footnotes, which contain additional important information.

This guide is designed to allow a relief association to choose among alternative provisions. A relief association may use language that differs from the language in this guide. We strongly urge relief associations to review bylaw amendments with legal counsel. **It's a relief association's responsibility to comply with current law.**

A relief association **MUST READ AND APPLY RELEVANT MINNESOTA STATUTES** to determine the proper course of action when amending bylaws. Minnesota statutes are available online at:

<https://www.revisor.mn.gov/pubs/>. The OSA prepares a booklet that contains many of the statutes that are applicable to fire relief associations. The booklet is available online at:

<https://www.osa.state.mn.us/media/vodp2pdb/booklet-web-version.pdf>.

This guide is not legal advice and should not be relied upon as legal advice. Relief associations should consult their legal counsel with any questions regarding law, including Minnesota statutes and this guide.

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This Bylaw Guide is provided for use in developing custom relief association bylaws for a defined-contribution plan

BYLAWS OF THE _____ FIRE RELIEF ASSOCIATION

(Identify the name of the relief association)

ARTICLE I – NAME

TO DO: In Section 1, identify the name of the Association.

Section 1 – **NAME**. The name of this relief association is the _____ Fire Relief Association (Association). It is a nonprofit organization incorporated under the laws of Minnesota.

TO DO: In Section 2, verify that the Association is a defined-contribution relief association.

Section 2 – **PLAN TYPE**. The Association is a defined-contribution relief association subject to Minn. Stat. §§ 424A.015 and 424A.016.¹ All benefits provided by this Association derive from and are governed by Federal and State laws and these bylaws.

Section 3 – **BOOKS AND RECORDS**.² The Association will keep, at a minimum, correct and complete copies of its articles of incorporation and bylaws, accounting records, records documenting Special Fund transactions, records necessary to determine benefits payable and paid to individual members and their beneficiaries, and minutes of each of its meetings that record the votes of actions taken. Unless a Records Retention Schedule was adopted and the [Minnesota Historical Society](#) has been notified or authority to destroy records is received from the Records Disposition Panel, relief association records may not be destroyed.

Section 4 – **PURPOSE**. The Association is a governmental entity that receives and manages public money to provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and emergency first response, and for their beneficiaries.³

¹ Minn. Stat. § 424A.002, subd. 2.

² Minn. Stat. §§ 138.17; 317A.461.

³ Minn. Stat. § 424A.001, subd. 4.

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Section 5 – **FISCAL YEAR.** The Association’s fiscal year begins on January 1 of each calendar year and ends on December 31 of the same calendar year.⁴

⁴ Minn. Stat. § 424A.001, subd. 11.

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ARTICLE II – MEMBERSHIP

TO DO: In Section 1, identify the name of the Fire Department affiliated with the Association. If the Fire Department employs individuals solely as volunteer emergency medical personnel, choose Option #1 or Option #2. If the Fire Department does not employ individuals who solely provide volunteer emergency medical duties, delete both Option #1 and Option #2.

Section 1 – **MEMBERSHIP.** All individuals who are members of the _____ Fire Department (Fire Department), who are engaged in firefighting services as volunteer or paid on-call firefighters, and who meet any additional standards established by the Fire Department or by the Association are eligible for membership in the Association.

If the city has approved the employment on the Fire Department of firefighters to perform fire prevention duties and to supervise fire prevention duties, the personnel serving in fire prevention positions are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire suppression duties.⁵

Option #1: (volunteer emergency medical personnel are not eligible for membership)

If the city has approved the employment on the Fire Department of volunteer emergency medical personnel, individuals who solely perform or supervise volunteer emergency medical duties are not eligible for membership in the Association.⁶

OR

Option #2: (volunteer emergency medical personnel are eligible for membership)

If the city has approved the employment on the Fire Department of volunteer emergency medical personnel, individuals who solely perform or supervise volunteer emergency medical duties are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire

⁵ Minn. Stat. § 424A.01, subd. 5.

⁶ Minn. Stat. § 424A.01, subd. 1.

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suppression duties.⁷

No member may be credited with service credit in the Association for the same hours of service for which coverage is already provided in a fund operated by the Public Employees Retirement Association.⁸

Application for membership will be made in writing on a form supplied by the Secretary of the Association. Membership will be considered for approval by the Board of Trustees.

TO DO: In Section 2, identify the date on which membership in the Association begins. Choose Option #1, Option #2, or Option #3.

Section 2 – **MEMBERSHIP START DATE.**⁹ Membership in the Association begins on

Option #1:

the date a firefighter is hired by the city.

OR

Option #2:

the date a firefighter completes the probationary period established by the Fire Department.

OR

Option #3:

the date a firefighter completes _____ (define service or membership requirements to be completed).

TO DO: In Section 3, choose Option #1 or Option #2.

Section 3 – **DUES.**

⁷ Minn. Stat. § 424A.01, subd. 1.

⁸ Minn. Stat. § 424A.01, subd. 4(a).

⁹ Minn. Stat. § 424A.001, subd. 12.

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Option #1: (membership dues are collected)

Each member of the Association will pay dues of _____ dollars annually to the Association. The dues will be deposited in the General Fund (membership dues cannot be deposited in the Special Fund).¹⁰

OR

Option #2: (membership dues are not collected)

The Association will not collect dues from its members.

Section 4 – **EXCLUSIONS.**¹¹ The Association may exclude from membership an applicant who, due to some medically determinable physical or mental impairment or condition, would constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. A minor may not be a member of this Association.

Section 5 – **TERMINATION.** Any member may be terminated from the Association for cause by a two-thirds vote of all members present at a special meeting of the membership. Cause for termination includes, but is not limited to, failure to account for money belonging to the Association, or feigning illness or injury for the purpose of defrauding the Association. A member may not be terminated except by a fair and reasonable process. A member who is terminated retains eligibility for any vested accrued benefits.

Section 6 – **ACTIVE SERVICE.** Active service is the supervision or performance of fire suppression duties. If the city has approved the employment on the Fire Department of fire prevention personnel, active service includes the supervision or performance of fire prevention duties. If the city has approved the employment on the Fire Department of volunteer emergency medical personnel and if their membership in the Association is permitted in Section 1 of this Article, active service also includes the supervision or performance of emergency medical response duties. Active service requires meeting minimum service requirements established by the Fire Department in the Fire Department's rules,

¹⁰ Minn. Stat. § 424A.06, subd. 2.

¹¹ Minn. Stat. § 424A.01.

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regulations, and policies.

Section 7 – **CERTIFICATION OF SERVICE CREDIT.**¹² Annually, by March 31, the Fire Chief must certify the service credit for the previous calendar year of each member rendering active service with the Fire Department. The certification must be made to an officer of the Association and to the city clerk or clerk-treasurer.

TO DO: In Section 8, choose Option #1, Option #2, or Option #3. If Option #3 is selected, identify the number of days of active service that are required for a “month” of active service (must be at least 16 days).

Section 8 – **DEFINITION OF YEAR OF ACTIVE SERVICE.**¹³

Option #1: (monthly proration not allowed)

A year of active service will be defined as 12 months of active service in the Fire Department. 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. Service pensions and ancillary benefits will *not* be prorated for fractional years of service (i.e., a member only receives service credit, including contribution, forfeiture, and administrative expense allocations¹⁴, for each complete year of service).

OR

Option #2: (monthly proration allowed)

A year of active service will be defined as 12 months of active service in the Fire Department. 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. Service pensions and ancillary benefits will be prorated monthly for fractional years of service (i.e., a member receives service credit, including contribution, forfeiture, and administrative expense allocations¹⁵, for each month of

¹² Minn. Stat. § 424A.003.

¹³ Minn. Stat. § 424A.016, subd. 4(e).

¹⁴ Dependent on the administrative expense allocation selected in Article VI, Section 5.

¹⁵ Dependent on the administrative expense allocation selected in Article VI, Section 5.

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service).

OR

Option #3: (same as #2 but a month is defined)

A year of active service will be defined as 12 months of active service in the Fire Department. A “month” is a calendar month in which the member completed at least _____ (must be at least 16) days of active service. Service pensions and ancillary benefits will be prorated monthly for fractional years of service (i.e., a member receives service credit, including contribution, forfeiture, and administrative expense allocations¹⁶, for each month of service).

Section 9 – **BREAK IN SERVICE.** A break in service means that a member has temporarily ceased supervising and performing fire suppression and fire prevention duties.¹⁷ If a member is unable to perform the duties of a firefighter for any reason, including an approved leave of absence or not meeting minimum service requirements established by the Fire Department, the member will be considered to have a break in service and will not receive service credit in the Association for that period of time unless the leave is protected under a state or federal statute requiring credit to be provided.¹⁸

TO DO: In Section 10, choose Option #1 or Option #2 to either allow or not allow members to return to active membership.

Section 10 – **RETURN TO SERVICE.**¹⁹

Option #1: (return to membership not allowed)

Any firefighter who has a break in service, or who has received payment of a service pension or disability benefit, will *not be eligible* to resume active membership in the Association

¹⁶ Dependent on the administrative expense allocation selected in Article VI, Section 5.

¹⁷ Minn. Stat. § 424A.001, subd. 9(a).

¹⁸ Resumption service requirements do not apply to leaves of absence made available by federal statute, such as the Family Medical Leave Act and the Uniformed Services Employment and Reemployment Rights Act, and do not apply to leaves of absence made available by state statute, such as MN Paid Leave, Parental Leave Act, the Leave for Organ Donation Act, the Leave for Civil Air Patrol Service Act, the Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service Act, or the Protection of Jurors’ Employment Act. See Minn. Stat. § 424A.01, subd. 6.

¹⁹ Minn. Stat. § 424A.01, subd. 6.

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should the firefighter resume active firefighting duties with the Fire Department. The firefighter will not be eligible to accrue any additional service credit with, or benefit from, the Association. If the firefighter attained the minimum service and membership requirements specified in these bylaws prior to the firefighter's break in service (i.e., is vested), the firefighter will retain the right to the benefit previously accrued, if the benefit has not been paid.

OR

Option #2: (return to membership allowed)

Any firefighter who has a break in service, including former members who have received payment of a service pension or disability benefit and who have waited at least 60 days following receipt of the pension or benefit, *will be eligible* to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department. Active membership in the Association immediately resumes when a member returns to active service with the Fire Department.²⁰

SECTION 11 – RETURN TO SERVICE FIREFIGHTER WHO HAS NOT BEEN PAID.²¹ If the firefighter *has not received* payment of a service pension or disability benefit, the firefighter may be eligible for a service pension or benefit if the firefighter meets the vesting requirements defined in Article VII based on the original and resumption years of service. The service pension will be calculated to include allocations credited to the firefighter's individual account during the original and resumption periods of service and deductions for administrative expenses, if applicable, less any amounts previously forfeited based on these bylaws.

Amounts forfeited under Article VI, Section 3 of these bylaws before a resumption of active service and membership remain forfeited and may not be reinstated upon the resumption of active service and membership.

TO DO: In Section 12, choose Option #1, Option #2, or Option #3 below to define the vesting requirements for a previously paid firefighter who returns to service. If Option #3 below is selected,

²⁰ Minn. Stat. § 424A.01, subd. 6(b)(2).

²¹ Minn. Stat. § 424A.01, subd. 6(d and j).

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the Association has flexibility to modify the years of active service required and the applicable vesting percentages in the sample vesting table. When modifying the table, vesting percentages should increase uniformly, and the maximum number of years required for full (100%) vesting cannot exceed 20.

SECTION 12 – **RETURN TO SERVICE FIREFIGHTER WHO HAS BEEN PREVIOUSLY PAID.**²² If the firefighter *has previously received* payment of a service pension or disability benefit and has waited at least 60 days following receipt of the pension or benefit before resuming active service and membership, the firefighter may be eligible for a second pension or benefit for the resumption period of service if the firefighter meets the vesting requirements defined in this section based on the resumption years of service. A second service pension for the resumption service period will be calculated to include allocations credited to the firefighter’s individual account during the resumption period of service and deductions for administrative expenses, if applicable. No firefighter may be paid a service pension more than once for the same period of service.

Option #1: (same vesting requirements apply)

A firefighter who previously received payment of a service pension or disability benefit from this Association must meet the eligibility requirements of Article VII, Section 2 of these bylaws to be eligible for a second distribution.

OR

Option #2: (single lower vesting requirement applies)

A firefighter who previously received payment of a service pension or disability benefit from this Association and who completes at least _____ (can be any number less than 20) years of active service with the Fire Department upon a resumption of active service is fully vested and eligible for a second distribution.

OR

Option #3: (graduated lower vesting requirements apply)

²² Minn. Stat. § 424A.01, subd. 6(c and i).

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A firefighter who previously received payment of a service pension or disability benefit from this Association and who completes at least _____ (can be any number less than 20) years of active service with the Fire Department upon a resumption of active service is eligible for a second distribution calculated using the applicable vesting percentage identified below:

Completed Years of Active Service:	Vested Percentage of Pension Amount:
1	40%
2	55%
3	70%
4	85%
5 and thereafter	100%

Section 13 – **UNIFORMED SERVICES.**²³ A firefighter who is absent from firefighting service because of service in the uniformed services may obtain service credit for the period of the uniformed service, not to exceed five years, unless a longer period is required by Federal law, if the firefighter returns within the time frame required by Federal law to firefighting service with coverage by this same Association or its successor upon discharge from service in the uniformed service.

Service credit will not be given if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

²³ Minn. Stat. § 424A.021. In some instances, service other than service with the Armed Forces may qualify. See 38 U.S.C. § 4303(13) (“service in the uniformed services”).

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ARTICLE III – OFFICERS AND TRUSTEES

Section 1 – **THE POWERS OF THE BOARD OF TRUSTEES.** The Board of Trustees (Board) is the governing board and has exclusive control of the investment of the Association’s plan assets in conformance with Federal and State law including, but not limited to, Minnesota statutes and these bylaws. The members of the Board will act as Trustees, with a fiduciary obligation to the active, deferred, and retired members of the Association, who are its beneficiaries; the taxpayers of the municipality, who help to finance the plan; and the State of Minnesota, which established the plan.²⁴

The Board will invest and reinvest the Association’s plan assets, determine benefits, determine eligibility for membership or benefits, determine the amount or duration of benefits, determine the funding requirements or amounts of contributions, oversee the expenditure of plan assets, and select financial institutions and investment products.²⁵

The Board will submit a written report on the financial condition of the Association to the members at the annual meeting.

The Board will develop and periodically revise a program for continuing education.²⁶ The Trustees will participate in continuing education to keep themselves abreast of their fiduciary responsibilities.

Section 2 – **MEMBERS OF THE BOARD OF TRUSTEES.** The Board consists of nine members (Trustees): six Trustees elected by the membership and three Trustees drawn from officials of the city served by the Fire Department.²⁷ A Board must have at least three officers, who are a President, a Secretary and a Treasurer. Of the three municipal Trustees, one must be an elected municipal official and one must be an elected or appointed municipal official, and both must be designated annually by the municipal governing board. The third municipal Trustee must be the Fire Chief.

If there’s a vacancy for the position of a non-municipal Trustee, the Association members can vote during a membership meeting to fill the position until the next annual or special meeting when a successor will be elected.

²⁴ Minn. Stat. § 356A.04, subd. 1.

²⁵ Minn. Stat. § 356A.02, subd. 2.

²⁶ Minn. Stat. § 356A.13, subd. 2.

²⁷ Minn. Stat. § 424A.04, subd. 1.

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TO DO: In Section 3, choose Option #1 or Option #2, and identify the number of years Association Officers are elected to serve.

Section 3 – **OFFICERS.**²⁸

Option #1: (officers elected by the Board)

The President, Secretary, and Treasurer will be elected from among the elected Trustees by the full Board for _____ (must be three years or less) year terms. The elections of the Trustees will be staggered. In no event will any Trustee hold more than one Officer position at any one time. In no event will any municipal Trustee hold an Officer position.

OR

Option #2: (officers elected by the membership)

The President, Secretary, and Treasurer will be elected from among the elected Trustees by the Association membership for _____ (must be three years or less) year terms. The elections of the Trustees will be staggered. In no event will any Trustee hold more than one Officer position at any one time. In no event will any municipal Trustee hold an Officer position.

Section 4 – **PRESIDENT.** The President will attend and preside at all meetings of the Association and the Board. The President will actively manage the business of the Association. The President will enforce the due observance of the law, including Minnesota statutes, the articles of incorporation, and the bylaws of the Association. The President will ensure that the officers properly perform the duties assigned to them and that the orders and resolutions of the Board are carried into effect. The President will sign all checks issued by the Treasurer and all other papers requiring the President’s signature. The President will be a member of all committees and will exercise careful supervision over the affairs of the Association. The President will perform other duties as prescribed by the Board.

Section 5 – **SECRETARY.** The Secretary will keep and post a true and accurate record of the proceedings of all meetings of the Association and of the Board. The Secretary will keep a correct record of all

²⁸ Minn. Stat. § 424A.04, subd. 1; *see also* Minn. Stat. § 317A.305.

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amendments, alterations, and additions to the bylaws in a book separate from the minute books of the Association. The Secretary will prepare all paperwork and obtain signatures required for benefits due. The Secretary will keep an account book in which to enter all money transactions of the Association, including the dates and amounts of all receipts and the source from which derived and the dates and the amounts of all expenditures with the payee and the object. The Secretary will keep individual files and a roll of membership, with the date of joining, resignation, discharge, retirement, dues (if applicable), and service pensions and ancillary benefits paid. The books of the Secretary will be at all times open to the Board. The Secretary will prepare and process all correspondence as needed. The Secretary will, jointly with the Treasurer, prepare and file all reports and statements required by law, including reports to be filed with the Office of the State Auditor. The Secretary will perform other duties as prescribed by the Board.

Section 6 – **TREASURER.** The Treasurer will, together with the Secretary, keep accurate financial records of the Association. The Treasurer will receive all monies belonging to the Association and deposit them in the name of and to the credit of the Association in the banks and depositories designated by the Board. The Treasurer will disburse funds and issue checks and drafts in the name of the Association as ordered by the Board. The Treasurer will keep separate and distinct accounts of the Special Fund and the General Fund, if applicable, and will prepare and present to the Board a full and detailed statement of the assets and liabilities of each fund separately, prior to the annual meeting of the Association, and upon request of the Board.

The Treasurer will deliver to the Treasurer's successor in office, or to any committee appointed by the Board to receive the same, all monies, books, papers, etc., pertaining to the Treasurer's term in office immediately upon the expiration of the Treasurer's term in office. The Treasurer will, prior to entering upon the duties of the Treasurer's office, give a bond in an amount equal to at least ten percent of the assets of the Association; however, the amount of the bond need not exceed \$500,000.²⁹ Jointly with the Secretary, the Treasurer will prepare and file all reports and statements required by law, including reports to be filed with the Office of the State Auditor. The Treasurer will perform other duties as prescribed by the Board.

TO DO: In Section 7, choose Option #1 or Option #2. If Option #2 is selected, the Association may

²⁹ Minn. Stat. § 424A.014, subd 4.

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*choose to compensate Officers only, or to compensate Officer and non-Officer Trustees. If Option #2 is selected, identify in Attachment A the names and salary amounts for all Officer and non-Officer Trustees to whom a salary is payable from the Special Fund.*³⁰

Section 7 – **COMPENSATION.**

Option #1: (salaries are not paid)

No Officer or Trustee may be paid a salary out of the Special Fund. Itemized expenses eligible for reimbursement are limited to those expenses incurred as a result of fulfilling responsibilities as administrators of the Special Fund.

OR

Option #2: (salaries paid to some or all Trustees)

Trustees of the Association identified in Attachment A may be paid a salary out of the Special Fund. The amount paid in salary is limited to the amount listed in Attachment A. Only after the amounts listed in Attachment A have been approved by the city council may salaries be paid to non-Officer Trustees. For all Trustees, itemized expenses eligible for reimbursement are limited to those expenses incurred as a result of fulfilling responsibilities as administrators of the Special Fund.

³⁰ Salary amounts paid to non-Officer Trustees of the relief association must be approved by the governing body of the entity responsible for meeting any minimum obligation. Salaries paid to Officers of the relief association do not require this approval. See Minn. Stat. § 424A.05, subd. 3b.

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ARTICLE IV – MEETINGS OF THE MEMBERS AND OF THE BOARD

Section 1 – **ANNUAL MEETING.**³¹ An annual meeting of the membership of the Association will be held in January of each year, at a time and place specified by the Board.

TO DO: In Section 2, identify the number of members who together may call a special meeting.

Section 2 – **SPECIAL MEETINGS.**³² A special meeting of the Association’s members may be called at any time upon the written order of the President, Secretary, and one additional Trustee, or of _____ (at least ten percent) percent of the members of the Association. The Order will be filed with the Secretary.

TO DO: In Section 3, identify the number of times that the Board will meet during the year (must be at least one time).

Section 3 – **BOARD MEETINGS.**³³ A Trustee may call a Board meeting by giving five days’ notice to all Trustees of the date, time, and place of the meeting.³⁴ The Board will meet at least _____ times during the year to discuss the investments, finances, benefits, and records of the Association. These meetings will be open to any member of the Association and to the public.

Section 4 – **NOTICE OF ANNUAL MEETING.**³⁵ Notice of each annual meeting of the Association’s members will be delivered to each member entitled to vote at the meeting at least five days before the date of the meeting and not more than 60 days before the date of the meeting. Notice will contain the date, time, and place of the meeting.

Section 5 – **NOTICE OF SPECIAL MEETINGS.**³⁶ Notice of each special meeting of the Association’s members will be delivered to each member entitled to vote at the meeting at least five days before the date of the meeting and not more than 60 days before the date of the meeting. Notice will contain the date, time, and place of the meeting. The Secretary will give due notice of each special meeting, specifying the object of said meeting, and no business will be transacted at any special meeting except

³¹ Minn. Stat. § 317A.431. The relief association may hold additional regular meetings during the year. *See also* Minn. Stat. § 317A.111, subd. 3(21).

³² Minn. Stat. § 317A.433.

³³ Minn. Stat. §§ 13D.04; 317A.231.

³⁴ Minn. Stat. § 317A.231.

³⁵ Minn. Stat. § 13D.04; *see also* Minn. Stat. § 317A.435.

³⁶ Minn. Stat. §§ 317A.433; 317A.435 (additional requirements regarding notice).

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the business for which the meeting was called.

Section 6 – **NOTICE OF BOARD MEETINGS.** Notice requirements of the Minnesota Open Meeting Law will be followed for all Board meetings.³⁷ A schedule of the Board’s regular meetings will be kept on file at the Board’s primary office.³⁸

For special meetings (including any regular meeting held at a time or place different from the time or place stated in the schedule of regular meetings), the Board will post written notice of the date, time, place, and purpose of the meeting on the Board’s principal bulletin board, or if the Board has no such bulletin board, on the door of its usual meeting room. The notice will also be mailed or delivered to each person who has filed a written request for notice with the Board. The notice will be posted and mailed or delivered at least three days before the date of the meeting.³⁹

If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.⁴⁰

TO DO: In Section 7, choose Option #1 or Option #2. If Option #2 is selected, identify the percentages.

Section 7 – **QUORUM FOR ANNUAL AND SPECIAL MEETINGS.**⁴¹

Option #1: (simple majority required)

A majority of the members of the Association will constitute a quorum for the transaction of business at the annual or any special meeting of the Association.

OR

Option #2: (defined percentage required)

A _____ (not less than ten percent of members entitled to vote) percentage of the members of the Association will constitute a quorum for the transaction of business at the annual or any

³⁷ Minn. Stat. ch. 13D.

³⁸ Minn. Stat. § 13D.04, subd. 1.

³⁹ Minn. Stat. § 13D.04, subd. 2.

⁴⁰ Minn. Stat. § 13D.04, subd. 4.

⁴¹ Minn. Stat. § 317A.451.

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special meeting of the Association.⁴²

TO DO: In Section 8, choose Option #1 or Option #2. If Option #2 is selected, identify the percentages.

Section 8 – QUORUM FOR BOARD MEETINGS.⁴³

Option #1: (simple majority required)

A majority of the Trustees will constitute a quorum for the transaction of business at the meetings of the Board.

OR

Option #2: (defined percentage required)

A _____ (not less than 33 percent) percentage of the Trustees will constitute a quorum for the transaction of business at the meetings of the Board.

Section 9 – VOTING AT ANNUAL AND SPECIAL MEETINGS.⁴⁴ Members of the Association are entitled to one vote. Voting by proxy is not permitted. All votes, unless specified prior to the vote, will be conducted by a voice vote. If a majority cannot be determined by voice vote, the officer in charge of the vote will ask for a vote by roll call or by ballot.

Section 10 – VOTING AT BOARD MEETINGS.⁴⁵ The Board has a responsibility to vote on the investment and reinvestment of Association assets, the determination of benefits, the determination of eligibility for membership or benefits, the determination of the amount or duration of benefits, the determination of funding requirements or the amounts of contributions, the maintenance of membership and financial records, the expenditure of Association assets, the selection of financial institutions and investment products, and on any other matter related to the business or affairs of the Association. Trustees, including all three municipal trustees, are entitled to one vote and each has equal rights. Voting by proxy is not permitted. All votes, unless specified prior to the vote, will be conducted by a voice vote. If a majority cannot be determined by voice vote, the officer in charge of the vote will ask for a vote by roll

⁴² Minn. Stat. § 317A.451.

⁴³ Minn. Stat. § 317A.235.

⁴⁴ Minn. Stat. §§ 317A.181, subd. 2; 317A.441; 317A.443.

⁴⁵ Minn. Stat. §§ 317A.201; 356A.02, subd. 2.

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call or by ballot.

Section 11 – **ORDER OF BUSINESS.** The annual meeting of the members of the Association will be conducted in the following order:

1. Call to order
2. Roll call
3. Reading and approval of minutes of previous meeting
4. Secretary's report
5. Treasurer's report
6. Committee reports
7. Unfinished business
8. New business
9. Adjournment

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ARTICLE V – APPLICATION FOR PENSIONS AND BENEFITS

Section 1 – **NOTICE OF INTENT TO TAKE DISTRIBUTION.** Each member who intends to take distribution of a service pension, including a deferred service pension, from the Association must file a Notice of Intent to Take Distribution. Such Notice of Intent to Take Distribution will be in writing and will be filed with the Secretary not less than 90 days prior to the intended date of distribution. (At its discretion, the Board may choose to waive the 90-day notice requirement.) Upon receipt of the Notice of Intent to Take Distribution, the Secretary will provide to the applicant an Application for Distribution and any forms or notices required by Federal or State law. No Notice of Intent to Take Distribution is required for ancillary benefits.

Section 2 – **APPLICATION FOR DISTRIBUTION.** Each person, including an alternate payee, who intends to take distribution of a service pension, a deferred service pension, or an ancillary benefit from the Association must file an Application for Distribution. The Secretary will provide to the applicant the Application for Distribution and any forms or notices required by State or Federal law. The Application for Distribution provided to the applicant must include a written explanation that describes the direct rollover rules, the mandatory income tax withholding rules for distributions not directly rolled over, the tax treatment of distributions not rolled over, and the circumstances when distributions may be subject to different restrictions and tax consequences after being rolled over.⁴⁶

All Applications for Distribution will be submitted to the Board for approval at a board meeting. Applications for Distribution will state the age of the member, the period of service, the date of separation from active service with the Fire Department, and any other information the Board may require. No service pension, including any deferred service pension, or ancillary benefit will be paid until the Application for Distribution has been approved by a majority vote of the Board.

Section 3 – **GOVERNING BENEFIT PLAN PROVISIONS.**⁴⁷ All service pensions, deferred service pensions, and ancillary benefits payable by the Association are governed by and must be calculated based on the State law, the Association bylaw provisions, and the Association articles of incorporation that are in effect on the date that the member separates from active service with the Fire Department and active membership in the Association, except that if a member has a break in service at the end of the

⁴⁶ Minn. Stat. § 356.633, subd. 4.

⁴⁷ Minn. Stat. § 424A.015, subd. 6

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member's firefighting career and does not resume active service before separating, the member's service pension, deferred service pension, or ancillary benefit must be calculated using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

TO DO: In Section 4, choose Option #1 or Option #2.

Section 4 – **QUALIFIED DOMESTIC RELATIONS ORDERS.**⁴⁸ A "qualified domestic relations order" means a domestic relations order that creates or recognizes the existence of an alternate payee's right to or assigns to an alternate payee the right to receive a service pension that is all or any portion of the service pension payable with respect to a member or former member of the Association.

An "alternate payee" means the former spouse of a member or former member of the Association, including a former spouse who is a distributee.

The Association must comply with a qualified domestic relations order purporting to assign all, or a portion of, a service pension accrued under the retirement plan of the Association, to the extent vested, if the payment or payments required by the order are within the limits described in state law. The Association must permit the alternate payee to elect a direct rollover if the service pension is an eligible rollover distribution.

Option 1: (immediate distribution permitted)

The distribution to an alternate payee under a qualified domestic relations order will be paid as early as administratively practicable after the order is received by the Association and the alternate payee has applied for the distribution, even if the member whose service pension is being assigned to the alternate payee under the order has not yet reached the minimum retirement age, if applicable in Article VII of these bylaws, and separated from active service with the Fire Department affiliated with the Association.

OR

Option 2: (distribution after member becomes eligible)

⁴⁸ Minn. Stat. § 424A.05, subd. 5.

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The distribution to an alternate payee under a qualified domestic relations order will be paid after the order is received by the Association, the alternate payee has applied for the distribution, and the member whose service pension is being assigned to the alternate payee under the order has reached the minimum retirement age, if applicable in Article VII of these bylaws, separated from active service with the Fire Department affiliated with the Association, and submitted an Application for Distribution.⁴⁹

⁴⁹ Minn. Stat. § 518.58, subd. 4.

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ARTICLE VI – INDIVIDUAL ACCOUNTS

Section 1 – **INDIVIDUAL ACCOUNTS.**⁵⁰ An individual account will be established for each firefighter who is a member of the Association. Contributions to and deductions from each individual account will be made as provided in this Article.

Section 2 – **CONTRIBUTIONS.**⁵¹ An equal share of any amounts of fire state aid and supplemental state aid received by the Association, any amounts of municipal contributions received by the Association, and any amounts forfeited from member accounts as provided in this Article will be credited to each individual active member account. Only active member accounts will be credited with contributions.

TO DO: In Section 3, determine when an account forfeiture will occur for members who are not vested. Choose Option #1, Option #2, or Option #3 regarding the timing of forfeitures for partially-vested members. If Option #3 is selected, identify the forfeiture waiting period.

Section 3 – **FORFEITURES.**⁵² The account of a member who separates from active service with the Fire Department before meeting the minimum service requirements specified in Article VII of these bylaws (i.e., the member is not vested) and who does not return to active service with the Fire Department within _____ (must be at least five) years is forfeited. The account is forfeited on January 1 of the following year.

The forfeitable portion of the account of a member who separates from active service with the Fire Department before meeting the minimum service requirements specified for full vesting in Article VII of these bylaws (i.e., the member is partially vested) is forfeited

Option #1: (forfeiture of the non-vested portion occurs at payment)

at the time the reduced service pension is paid to the member.

OR

Option #2: (forfeiture of the non-vested portion occurs at separation)

⁵⁰ Minn. Stat. § 424A.016, subd. 4.

⁵¹ Minn. Stat. § 424A.016, subd. 4(b).

⁵² Minn. Stat. § 424A.016, subd. 4(b)(3).

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at the time the member separates from active service with the Fire Department.

OR

Option #3: (forfeiture of the non-vested portion occurs at a time defined by the Association)

on January 1 of the year after the member does not return to active service with the Fire Department within _____ years.

TO DO: In Section 4, choose Option #1 or Option #2 to determine the crediting of investment returns for former members.

Section 4 – **INVESTMENT RETURNS AND FEES.**⁵³ Any investment return on the assets of the Special Fund will be credited in proportion to the share of the assets of the Special Fund to the credit of each individual active and inactive member account. Investment return allocations for deferred members are defined in Article VIII. Members who have separated from active service before becoming vested and whose accounts have not been forfeited will

Option #1: (investment returns not credited)

not be credited with any investment returns.

OR

Option #2: (investment returns credited in the same manner as active and inactive member accounts)

be credited in proportion to the share of the assets of the Special Fund to the credit of each individual former member account.

Investment management fees will be deducted in proportion to the share of the assets of the Special Fund from the accounts of all members who shared in investment earnings or losses during the year.

TO DO: In Section 5, choose Option #1, Option #2, Option #3, or Option #4 regarding the deduction of

⁵³ Minn. Stat. § 424A.016, subd. 4(c).

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administrative expenses.

Section 5 – **ADMINISTRATIVE EXPENSES.**⁵⁴ Administrative expenses payable from the Special Fund will be deducted

Option #1: (deducted in equal shares from all member accounts)

in equal shares from all member accounts.

OR

Option #2: (same as #1 but deducted from active member accounts only)

in equal shares from all active member accounts.

OR

Option #3: (deducted on a pro-rata basis from all member accounts)

in proportion to the share of the assets of the Special Fund to the credit of each individual member account.

OR

Option #4: (same as #3 but deducted from active member accounts only)

in proportion to the share of the assets of the Special Fund to the credit of each individual active member account.

TO DO: In Section 6, choose Option #1, Option #2, Option #3, or Option #4 to define the Accounting Date.

Section 6 – **ACCOUNTING DATE.** The Association will determine the value of each individual account

Option #1: (annually)

⁵⁴ Minn. Stat. § 424A.016, subd. 4(d).

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annually, on December 31.

OR

Option #2: (semi-annually)

semi-annually, on June 30 and on December 31.

OR

Option #3: (quarterly)

quarterly, on March 31, on June 30, on September 30, and on December 31.

OR

Option #4: (monthly)

monthly, on the last day of each calendar month.

If a member elects to request a distribution outside of the Association's established accounting date(s), the Board, at its discretion, may require the member to pay any reasonable costs associated with the calculation of updated account values to determine a current and accurate pension or benefit amount.

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ARTICLE VII – SERVICE PENSIONS

TO DO: Choose Option #1, Option #2, Option #3, or Option #4 and identify the minimum retirement age, if applicable, and service requirements in Section 2. In Section 4, choose Option #1 or Option #2 regarding minimum retirement ages for deferred members who separated prior to the effective date of these bylaws, if Option #2 or Option #4 is selected.

Option #1: (reduced service pensions are *not* paid and members are subject to a minimum retirement age)

Section 1 – **SERVICE PENSIONS.** Upon a member meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, the Association will pay the member out of the Special Fund a service pension equal to the value of the member’s individual account as determined on the most recent prior Accounting Date.

Section 2 – **ELIGIBILITY.**⁵⁵ An unreduced service pension may be paid after a member has met all of the following requirements, and completed the notice and application requirements of Article V:

1. Have separated from active service with the Fire Department;
2. Be at least _____ years of age;
3. Be **fully vested** by having completed at least _____ (must be at least ten, but no more than 20) years of active service with the Fire Department; and
4. Be **fully vested** by having completed at least _____ (must be at least five, but no more than 20) years of active membership with the Association.

Section 3 – **DEFERRED STATUS.** A member who has otherwise met the eligibility requirements defined in Section 2 of this Article but who has not yet reached the age of eligibility specified in Section 2 may not collect a service pension at the time of separation from active service. The member will be placed on deferred status and be entitled to receive the service pension

⁵⁵ Minn. Stat. § 424A.016, subd. 2.

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upon reaching the age of eligibility specified in Section 2 and following submission and approval of an Application for Distribution.

A member who has met the eligibility requirements defined in Section 2 of this Article and who has reached the age of eligibility in Section 2, but who chooses not to immediately submit an Application for Distribution following the member's separation from active service will be placed on deferred status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

OR

Option #2: (reduced service pensions are *not* paid and members are *not* subject to a minimum retirement age)

Section 1 – **SERVICE PENSIONS.** Upon a member meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, the Association will pay the member out of the Special Fund a service pension equal to the value of the member's individual account as determined on the most recent prior Accounting Date.

Section 2 – **ELIGIBILITY.**⁵⁶ An unreduced service pension may be paid as soon as practicable after a member has met all of the following requirements, and completed the notice and application requirements of Article V:

1. Have separated from active service with the Fire Department;
2. Be **fully vested** by having completed at least _____ (must be at least ten, but no more than 20) years of active service with the Fire Department; and
3. Be **fully vested** by having completed at least _____ (must be at least five, but no more than 20) years of active membership with the Association.

Section 3 – **DEFERRED STATUS.** A member who has met the eligibility requirements defined in Section 2 of this Article but who chooses not to immediately submit an Application for Distribution following the member's separation from active service will be placed on deferred

⁵⁶ Minn. Stat. § 424A.016, subd. 2.

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status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

TO DO: In Section 4, choose Option #1 or Option #2 regarding minimum retirement ages for deferred members who separated prior to the effective date of these bylaws.

Section 4 – **DEFERRED MEMBER MINIMUM RETIREMENT AGE.**

Option #1: (currently deferred members subject to minimum retirement age when separated)

Deferred members who separated from active Fire Department service and active Association membership prior to the effective date of these bylaws must meet the minimum retirement age required in the bylaws that were in effect on the date of their separation from active service and membership.

OR

Option #2: (currently deferred members subject to lower minimum retirement age of these bylaws)⁵⁷

Deferred members who separated from active Fire Department service and active Association membership prior to the effective date of these bylaws are subject to the minimum retirement age of these bylaws, notwithstanding Article V, Section 3, if the minimum retirement age specified in these bylaws is lower than the age specified in the bylaws when the deferred member separated.

If these bylaws do not require a minimum retirement age and permit distributions as soon as practicable after a member has separated, deferred members who separated from active service and membership prior to the effective date of these bylaws may submit an Application for Distribution at the time of their choosing and are not subject to the minimum retirement age defined in the bylaws when they separated.

⁵⁷ Minn. Stat. § 424A.016, subd. 6(f).

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OR

Option #3: (reduced service pensions are paid and members are subject to a minimum retirement age)

Section 1 – **SERVICE PENSIONS.** Upon a member meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, a reduced service pension may be paid according to the partial vesting schedule contained in this Article. The Association will pay the member out of the Special Fund the nonforfeitable percentage of the member’s individual account balance as determined on the most recent prior Accounting Date.

Section 2 – **ELIGIBILITY.**⁵⁸ A service pension may be paid after a member has met all of the following requirements, and completed the notice and application requirements of Article V:

1. Have separated from active service with the Fire Department;
2. Be at least _____ years of age;
3. Be **partially vested** by having completed at least _____ (must be at least five) years of active service with the Fire Department, or be **fully vested** by having completed at least _____ (must be at least ten, but no more than 20) years of active service with the Fire Department; and
4. Be **partially vested** by having completed at least _____ (must be at least five) years of active membership with the Association, or be **fully vested** by having completed at least _____ (must be at least five, but no more than 20) years of active membership with the Association.

Section 3 – **DEFERRED STATUS.** A member who has otherwise met the eligibility requirements defined in Section 2 of this Article but who has not yet reached the age of eligibility specified in Section 2 may not collect a service pension at the time of separation from active service. The member will be placed on deferred status and be entitled to receive the service pension

⁵⁸ Minn. Stat. § 424A.016, subd. 2.

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upon reaching the age of eligibility specified in Section 2 and following submission and approval of an Application for Distribution.

A member who has met the eligibility requirements defined in Section 2 of this Article and who has reached the age of eligibility in Section 2, but who chooses not to immediately submit an Application for Distribution following the member's separation from active service will be placed on deferred status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

OR

Option #4: (reduced service pensions are paid and members are *not* subject to a minimum retirement age)

Section 1 – **SERVICE PENSIONS.** Upon a member meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, a reduced service pension may be paid according to the partial vesting schedule contained in this Article. The Association will pay the member out of the Special Fund the nonforfeitable percentage of the member's individual account balance as determined on the most recent prior Accounting Date.

Section 2 – **ELIGIBILITY.**⁵⁹ A service pension may be paid as soon as practicable after a member has met all of the following requirements, and completed the notice and application requirements of Article V:

1. Have separated from active service with the Fire Department;
2. Be **partially vested** by having completed at least _____ (must be at least five) years of active service with the Fire Department, or be **fully vested** by having completed at least _____ (must be at least ten, but no more than 20) years of active service with the Fire Department; and
3. Be **partially vested** by having completed at least _____ (must be at least five) years

⁵⁹ Minn. Stat. § 424A.016, subd. 2.

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of active membership with the Association, or be **fully vested** by having completed at least _____ (must be at least five, but no more than 20) years of active membership with the Association.

Section 3 – **DEFERRED STATUS**. A member who has met the eligibility requirements defined in Section 2 of this Article but who chooses not to immediately submit an Application for Distribution following the member’s separation from active service will be placed on deferred status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

TO DO: In Section 4, choose Option #1 or Option #2 regarding minimum retirement ages for deferred members who separated prior to the effective date of these bylaws.

Section 4 – **DEFERRED MEMBER MINIMUM RETIREMENT AGE.**

Option #1: (currently deferred members subject to minimum retirement age when separated)

Deferred members who separated from active Fire Department service and active Association membership prior to the effective date of these bylaws must meet the minimum retirement age required in the bylaws that were in effect on the date of their separation from active service and membership.

OR

Option #2: (currently deferred members subject to lower minimum retirement age of these bylaws)⁶⁰

Deferred members who separated from active Fire Department service and active Association membership prior to the effective date of these bylaws are subject to the minimum retirement age of these bylaws, notwithstanding Article V, Section 3, if the minimum retirement age specified in these bylaws is lower than the age specified in the bylaws when the deferred member separated.

⁶⁰ Minn. Stat. § 424A.016, subd. 6(f).

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If these bylaws do not require a minimum retirement age and permit distributions as soon as practicable after a member has separated, deferred members who separated from active service and membership prior to the effective date of these bylaws may submit an Application for Distribution at the time of their choosing and are not subject to the minimum retirement age defined in the bylaws when they separated.

TO DO: In Section 4, choose Option #1 or Option #2. Note that the Association has flexibility to adopt percentage amounts that are equal to or less than those provided in the sample vesting schedule below. The percentage amounts provided in Option #1 are the maximum percentage amounts allowed by State law.

Section 4 – PARTIAL VESTING SCHEDULE.⁶¹

Option #1: (Ten-Year Full-Vesting Schedule)

Completed Years of Active Service:	Vested Percentage of Pension Amount:
5	40%
6	52%
7	64%
8	76%
9	88%
10 and thereafter	100%

OR

Option #2: (20-Year Full-Vesting Schedule)

Completed Years of Active Service:	Vested Percentage of Pension Amount:
------------------------------------	--------------------------------------

⁶¹ Minn. Stat. § 424A.016, subd. 3.

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5	40%
6	44%
7	48%
8	52%
9	56%
10	60%
11	64%
12	68%
13	72%
14	76%
15	80%
16	84%
17	88%
18	92%
19	96%
20 and thereafter	100%

TO DO: In Section 5, identify the partial payment method and choose Option #1 or Option #2.

Section 5 – **PAYMENT OPTIONS**. For any payment option listed below, the Board may authorize a partial payment distribution when the timing of the accounting date, specified in Article VI, Section 6 of these bylaws, prevents the full payment information from being available. The partial payment distribution method is _____ (insert distribution method).

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Option #1: (installment payments not offered)

The retiring member must elect, by making a written request, the manner of payment of the service pension. Options include:

- (a) A single lump-sum payment payable to the retiring member (subject to current state and federal income tax withholding requirements).
- (b) An annuity contract purchased with a lump-sum payment on behalf of a retiring member from an insurance carrier licensed to do business in the State of Minnesota.⁶²
- (c) A direct rollover distribution of the retiring member's lump-sum payment to the member's eligible retirement plan.⁶³
- (d) A direct rollover distribution of the retiring member's lump-sum payment to the member's individual Minnesota deferred compensation plan.⁶⁴

OR

Option #2: (installment payments offered)

The retiring member must elect, by making a written request, the manner of payment of the service pension. Options include:

- (a) A single lump-sum payment payable to the retiring member (subject to current state and federal income tax withholding requirements).
- (b) An annuity contract purchased with a lump-sum payment on behalf of a retiring member from an insurance carrier licensed to do business in the State of Minnesota.⁶⁵
- (c) A direct rollover distribution of the retiring member's lump-sum payment to the member's

⁶² Minn. Stat. § 424A.015, subd. 3.

⁶³ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

⁶⁴ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

⁶⁵ Minn. Stat. § 424A.015, subd. 3.

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eligible retirement plan.⁶⁶

(d) A direct rollover distribution of the retiring member's lump-sum payment to the member's individual Minnesota deferred compensation plan.⁶⁷

(e) At the option of the retiring member, installment payments made in lieu of a single lump-sum service pension. The election of installment payments is irrevocable and must be made by the intended recipient in writing and filed with the Secretary no later than 30 days before the commencement of payment of the service pension. The amount of each installment payment will be the fractional portion of the member's remaining individual account balance equal to one divided by the number of remaining annual installment payments.⁶⁸

Section 5 – **SUPPLEMENTAL BENEFIT.**⁶⁹ A supplemental benefit will be paid out of the Special Fund to individuals who receive a lump-sum distribution of a service pension. The amount of the supplemental benefit is ten percent of the regular pre-tax lump-sum distribution, excluding any interest that may have been credited during the period of deferral, but not to exceed \$1,000.

⁶⁶ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

⁶⁷ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

⁶⁸ Minn. Stat. § 424A.016, subd. 5.

⁶⁹ Minn. Stat. § 424A.10.

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ARTICLE VIII – DEFERRED MEMBER INVESTMENT ALLOCATIONS

TO DO: In Section 1, choose Option #1, Option #2, or Option #3 regarding investment return allocations to deferred member accounts.

Section 1 – **ADDITIONAL INVESTMENT PERFORMANCE.**⁷⁰

Option #1: (additional investment performance credited at Special Fund investment return)

The accounts of partially-vested and fully-vested deferred members will be credited with additional investment performance during the period of deferral. Any investment return on the assets of the Special Fund will be credited in proportion to the share of the assets of the Special Fund to the credit of each individual deferred member account. Deferred member accounts will be credited with net investment gains or losses at the rate actually earned by the Association on the investment of Special Fund assets, in the same manner as investment returns are credited to active and inactive member accounts.

OR

Option #2: (additional investment performance credited at rate actually earned on separate investment account)

The accounts of partially-vested and fully-vested deferred members will be credited with additional investment performance during the period of deferral. A pooled separate investment account will be established and maintained by the Association for the amounts payable to deferred members. Additional investment performance will be credited at the investment performance rate actually earned on the member's portion of the assets. The deferred member's individual account is equal to the deferred member's portion of the separate relief association account balance. The deferred member bears the full investment risk subsequent to transfer.

OR

⁷⁰ Minn. Stat. § 424A.016, subd. 6.

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Option #3: (additional investment performance credited at rate actually earned on separate investment vehicle)

The accounts of partially-vested and fully-vested deferred members will be credited with additional investment performance during the period of deferral. The amount credited to a deferred member will be transferred to a separate investment vehicle held by the relief association. Additional investment performance will be credited at the investment performance rate actually earned on the separate investment vehicle. The deferred member's individual account is equal to the fair market value of the separate investment vehicle held by the relief association. The deferred member bears the full investment risk subsequent to transfer.

Section 2 – **INVESTMENT PERFORMANCE ALLOCATION METHOD.** Additional investment performance allocations to deferred member accounts begin on the date the member separates from active Fire Department service and active Association membership and end on the last date that the deferred member account is valued before the final distribution of the deferred service pension.⁷¹

⁷¹ As an alternative to the investment allocation method provided, the relief association may define in these bylaws its own investment performance allocation method, as long as the definition includes the interest period starting date and ending date. Before defining its own allocation method, the relief association should consult with its attorney. See Minn. Stat. § 424A.016, subd. 6(e).

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ARTICLE IX – ANCILLARY BENEFITS

TO DO: In Section 1, choose Option #1 or Option #2. If Option #2 is selected, choose Option #2A, Option #2B, or Option #2C regarding survivor benefits on behalf of members who are not active or deferred.

Section 1 – **SURVIVOR BENEFIT.**⁷²

Option #1: (survivor benefits are not paid)

Survivor benefits are not provided by this Association.

OR

Option #2: (survivor benefits are paid)

Upon the death of a member of the Association and following the submission and approval of an Application for Distribution, a survivor benefit will be paid out of the Special Fund to the member's surviving spouse; if there is no surviving spouse, to the member's surviving children; if there is no surviving spouse and there are no surviving children, to the member's designated beneficiary. If no beneficiary has been designated and if the deceased member was active or deferred, the survivor benefit will be paid as a death benefit to the estate of the deceased member.

If there are no surviving children, the member's surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit, so that the survivor benefit may be paid directly to the member's designated beneficiary.

A trust created under Chapter 501C may be a designated beneficiary if the survivor benefit will be distributed as a one-time lump-sum payment. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit will be paid to the trust.

If a member had a break in service at the end of the member's firefighting career and did not resume active service before the member's death, the survivor benefit must be calculated

⁷² Minn. Stat. § 424A.016, subd. 7.

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using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

For *active* members if, upon death, the member had not yet separated from active service, a survivor benefit equal to the **vested and non-vested** amount of the member's individual account will be paid.

For *deferred* members, a survivor benefit equal to the **vested** amount of the member's individual account will be paid.

For *the recipient of installment payments*, a survivor benefit equal to the remaining balance in the member's individual account will be paid.

TO DO: If Option #2 is selected, choose Option #2A, Option #2B, or Option #2C regarding survivor benefits on behalf of members who are not active or deferred.

Option #2A: (survivor benefits paid on behalf of active and deferred members only)

For members who are not active or deferred, no survivor benefit will be paid.

OR

Option #2B: (vested amounts paid on behalf of members who are not active or deferred)

For members who are not active or deferred, a survivor benefit equal to the **vested** amount of the member's individual account will be paid.

OR

Option #2C: (vested and non-vested amounts paid on behalf of members who are not active or deferred)

For members who are not active or deferred, a survivor benefit equal to the **vested and non-vested** amount of the member's individual account will be paid.

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Section 2 – **SUPPLEMENTAL SURVIVOR BENEFIT.**⁷³ A supplemental survivor benefit will be paid out of the Special Fund when a lump-sum survivor benefit is paid. The amount of the supplemental survivor benefit to be paid is 20 percent of the survivor benefit, but not to exceed \$2,000.

Section 3 – **NO ADDITIONAL FINANCIAL RELIEF.** Except for the relief expressly identified for survivors in these bylaws, a member or former member’s surviving spouse, child or children, designated beneficiary, and estate are not entitled to any other or further relief or benefits from the Association.

TO DO: In Section 4, choose Option #1 or Option #2. If Option #2 is selected, choose Option #2A, Option #2B, or Option #2C regarding disability benefits to members who are not active or deferred, and choose Option #2D or Option #2E regarding temporary disability benefits. If Option #2E is selected, identify the amount of temporary disability benefits that are paid and the length of time that a member may collect them.

Section 4 – **DISABILITY BENEFIT.**⁷⁴

Option #1: (disability benefits are not paid)

Disability benefits are not provided by this Association.

OR

Option #2: (disability benefits are paid)

Permanent disability benefits may be paid to permanently disabled members of the Association out of the Special Fund following the submission and approval of an Application for Distribution.

If a member had a break in service at the end of the member’s firefighting career and did not resume active service before the member’s separation from active service, the disability benefit must be calculated using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

⁷³ Minn. Stat. § 424A.10.

⁷⁴ Minn. Stat. §§ 424A.016, subd. 7; 424A.05, subd. 3. The relief association should consult an attorney for assistance in defining what it means to be temporarily or permanently disabled.

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For *active* members, a permanent disability benefit equal to the **vested and nonvested** amount of the member's individual account will be paid if, upon the date of permanent disability, the member has not yet separated from active service. The member is eligible to receive the disability benefit immediately upon approval by the Board.

For *deferred* members, a permanent disability benefit equal to the **vested** amount of the member's individual account will be paid. The member is eligible to receive the disability benefit immediately upon approval by the Board.

For *the recipient of installment payments*, a permanent disability benefit equal to the remaining balance in the member's individual account will be paid. The member is eligible to receive the disability benefit immediately upon approval by the Board.

TO DO: If Option #2 is selected, choose Option #2A, Option #2B, or Option #2C regarding disability benefits to members who are not active or deferred, and choose Option #2D or Option #2E regarding temporary disability benefits. If you choose Option #2E, identify the amount of temporary disability benefits that are paid and the length of time that a member may collect them.

Option #2A: (disability benefits paid on behalf of active and deferred members only)

For members who are not active or deferred, no disability benefit will be paid.

OR

Option #2B: (vested amounts paid to members who are not active or deferred)

For members who are not active or deferred, a disability benefit equal to the **vested** amount of the member's individual account will be paid.

OR

Option #2C: (vested and non-vested amounts paid to members who are not active or deferred)

For members who are not active or deferred, a disability benefit equal to the **vested and non-vested** amount of the member's individual account will be paid.

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TO DO: Choose Option #2D or Option #2E regarding payment of temporary disability benefits. If Option #2E is selected, identify the amount of temporary disability benefits that are paid and the length of time that a member may collect them.

Option #2D: (temporary disability benefits are not paid)

Temporary disability benefits are not provided by this Association.

OR

Option #2E: (temporary disability benefits are paid)

Temporary disability benefits may be paid to temporarily disabled *active* members in the amount of \$_____ per _____, for no longer than _____.

Section 5 – **DISABILITY BENEFIT QUALIFICATION.** *Disability Benefit Qualification should be clearly defined in the Association’s bylaws. Disability Benefit Qualifications are complex and are outside the scope of this guide. Consult an attorney for legal advice and specific language.*

TO DO: In Section 6, choose Option #1 or Option #2.

Section 6 – **PAYMENT OPTIONS.**

Option #1: (installment payments not offered)

The recipient of an ancillary benefit must elect, by making a written request, the manner of payment of the ancillary benefit. Options include:

- (a) A single lump-sum payment payable to the intended recipient (subject to current state and federal income tax withholding requirements).
- (b) A direct rollover distribution of the lump-sum ancillary benefit to the eligible retirement plan of the member, the member’s surviving spouse, or distributee.⁷⁵

OR

⁷⁵ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

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Option #2: (installment payments offered to survivor benefit recipients)

The recipient of an ancillary benefit must elect, by making a written request, the manner of payment of the ancillary benefit. Options include:

(a) A single lump-sum payment payable to the intended recipient (subject to current state and federal income tax withholding requirements).

(b) A direct rollover distribution of the lump-sum ancillary benefit to the eligible retirement plan of the member, the member's surviving spouse, or distributee, as applicable.⁷⁶

(c) At the option of the retiring member, installment payments may be made in lieu of a single lump-sum survivor benefit. The election of installment payments is irrevocable and must be made by the intended survivor benefit recipient in writing and filed with the Secretary no later than 30 days before the commencement of payment of the survivor benefit. The amount of each installment payment will be the fractional portion of the member's remaining individual account balance equal to one divided by the number of remaining annual installment payments.⁷⁷ (This option is available to recipients of a survivor benefit.)

⁷⁶ Minn. Stat. § 424A.015, subd. 4; *see also* Minn. Stat. § 356.633, subd. 1.

⁷⁷ Minn. Stat. § 424A.016, subd. 5.

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ARTICLE X – FUNDS

TO DO: In Section 1, choose Option #1 or Option #2 regarding relief association funds. Charitable Gambling funds are outside the scope of this sample bylaw guide.

Section 1 – **FUNDS.**⁷⁸

Option #1: (one fund is kept)

The Association will establish and maintain a Special Fund.⁷⁹

OR

Option #2: (two funds are kept)

The Association will establish and maintain a Special Fund and a General Fund.⁸⁰

Section 2 – **SPECIAL FUND.**⁸¹ All public funds, such as fire state aid, supplemental state aid, municipal contributions, and supplemental benefit reimbursements, received by the Association will be deposited in the Special Fund. Disbursements from the Special Fund will not be made for any purpose except as authorized by Minn. Stat. § 424A.05.

The Treasurer is the custodian of the assets of the Special Fund and the recipient on behalf of the Special Fund of all revenues payable to it. The Treasurer will maintain adequate records documenting all transactions involving the financial activities of the Special Fund.

Checks or authorizations for electronic fund transfers for disbursement of Special Fund assets must be signed by the Association Treasurer and at least one other elected Association Trustee who has been designated by the Board to sign the checks or authorizations. The Association may only make disbursements by electronic fund transfers if the specific method of payment and internal control policies and procedures regarding the method are approved by the Board.⁸²

⁷⁸ Charitable Gambling funds are outside the scope of this bylaw guide.

⁷⁹ Minn. Stat. § 424A.05, subd. 1.

⁸⁰ Minn. Stat. § 424A.06.

⁸¹ Minn. Stat. § 424A.05.

⁸² Minn. Stat. § 424A.05, subd. 3.

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TO DO: If Option #1 is selected in Section 1, omit Section 3 below. If Option #2 is selected in Section 1, retain Section 3 below and identify purposes for authorized disbursements.

Section 3 – **GENERAL FUND.**⁸³ Money received from sources, such as fundraising activities and donations, will be deposited into the General Fund. Funds may be disbursed by the Board for any purpose authorized by the articles of incorporation or by these bylaws. Such purposes include _____ . All Association expenses not specifically authorized by State statute to be paid out of the Special Fund must be paid out of the General Fund.

The Treasurer is the custodian of the assets of the General Fund and the recipient on behalf of the General Fund of all revenues payable to it. The Treasurer will maintain adequate records documenting any transactions involving the financial activities of the General Fund.

Section 4 – **NONASSIGNABILITY OF BENEFITS.**⁸⁴ Benefits paid or payable from the Special Fund are not subject to garnishment, judgment, execution, or other legal process, except as provided in Minn. Stat. §§ 424A.05; 518.58; 518.581; and 518A.53. Benefits paid or payable may not be assigned for any purpose.

⁸³ Minn. Stat. § 424A.06.

⁸⁴ Minn. Stat. § 424A.015, subd. 2.

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ARTICLE XI – INVESTMENTS

Section 1 – **STANDARD OF FIDUCIARY CONDUCT.**⁸⁵ Trustees owe a fiduciary duty to the active, deferred, and retired members of the Association, who are plan beneficiaries; to the taxpayers of the municipality, who help finance the plan; and to the State of Minnesota, which established the plan. The Trustees will act in good faith and exercise that degree of judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, considering the probable safety of plan capital as well as the probable investment return to be derived from the assets.

Section 2 – **INVESTMENT POLICY.** The Board will approve an investment policy and will investigate and prepare for the safe and profitable investment of Association funds in conformance with State statutes and the Association’s investment policy. The Board may hire investment professionals to act for or on its behalf. The Special Fund assets will be invested only in securities that are authorized by Minn. Stat. §§ 356A.06, subd. 6 or 7, whichever applies, and 356.64.⁸⁶ The Board will have on file a copy of the investment policy of the Association. The Board will file a copy of the Association’s investment policy, and all changes to the policy, with the Office of the State Auditor.⁸⁷

Section 3 – **BROKER CERTIFICATION.**⁸⁸ The Association will provide annually to its broker a written statement of investment restrictions from the applicable State laws and from the Association’s investment policy. Annually, before the Association enters into or continues business with the broker, the broker must submit to the Association a signed Broker Certification, using the form prepared by the Office of the State Auditor.

⁸⁵ Minn. Stat. § 356A.04.

⁸⁶ Minn. Stat. § 424A.095, subd. 1.

⁸⁷ Minn. Stat. § 356.219, subd. 3(a).

⁸⁸ Minn. Stat. § 356A.06, subd. 8(b).

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ARTICLE XII – UNCLAIMED BENEFITS

Section 1 – **UNCLAIMED BENEFITS.**⁸⁹ In the event that the Association is unable with reasonable effort to locate a member or a survivor of a member entitled to payment or distribution under these bylaws or by State law, the benefit distributable to such member or survivor of such member will be forfeited and will be credited to the Special Fund. If the unclaimed benefit amount exceeds \$25 and the inactive or former member again becomes a member of the Association, the canceled amount must be restored to the credit of the person. Efforts to locate a member or survivor must be documented. Forfeiture will occur no earlier than thirty-six (36) months after the Board concludes the Association was unable to locate such member or survivor despite reasonable efforts to locate them.

⁸⁹ If an Association's bylaws do not address the disposition of unclaimed benefits, unclaimed benefits must be handled as set forth in Minn. Stat. § 356.65.

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ARTICLE XIII – AMENDMENTS, CONSOLIDATION, AND DISSOLUTION

Section 1 – **AMENDMENTS.**⁹⁰ These bylaws may be amended when necessary by a _____ (majority or greater) of the members of the Board. Proposed amendments will be submitted to the Secretary to be posted with regular board announcements.

The Association will file a revised copy of these bylaws with the Office of the State Auditor upon the adoption of any amendments.⁹¹

Section 2 – **CONSOLIDATION.** A consolidation of the Association with one or more fire relief associations will be initiated pursuant to Minn. Stat. § 424B.02, subds. 1 and 2, and will comply with the process set forth in and the requirements of Chapter 424B.

Section 3 – **DISSOLUTION.**⁹² The Board must follow the requirements of Minn. Stat. § 424B.22, to dissolve the Association and terminate the retirement plan.

To terminate the Association’s retirement plan, the Board must comply with Minn. Stat. § 424B.22, subdivisions 3, 5 to 11, and, if desired, subdivision 4.

To dissolve the Association, the Board must terminate the retirement plan as described above, determine all legal obligations of the special and general funds of the Association, as required by Minn. Stat. § 424B.22, subdivision 5, take the actions required by subdivision 12 of that section, and comply with the requirements governing dissolution of nonprofit corporations under chapter 317A.

⁹⁰ Minn. Stat. § 317A.181.

⁹¹ Minn. Stat. § 424A.016, subd. 8.

⁹² Minn. Stat. § 424B.22.

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TO DO: Identify the name of the Association and the date that these bylaws or any amendments are adopted and approved by the Board. The date is required for filings with the Office of the State Auditor.

The Association's Officers must sign and date the bylaws and amendments after they have been adopted and approved.

<u>BYLAWS</u>	
These bylaws are hereby adopted and approved by the members of the _____ Fire Relief Association on this _____ day of _____, 20____.	
_____	date: _____
President	
_____	date: _____
Secretary	
_____	date: _____
Treasurer	

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AMENDMENTS

These amendments to the bylaws are hereby adopted and approved by the members of the _____ Fire Relief Association on this _____ day of _____, 20____.

date: _____
President

date: _____
Secretary

date: _____
Treasurer

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ATTACHMENT A – COMPENSATION

TRUSTEE

SALARY

President (Officer) _____

Secretary (Officer) _____

Treasurer (Officer) _____

Trustee #4 _____

Trustee #5 _____

Trustee #6 _____

Trustee #7 _____

Trustee #8 _____

Trustee #9 _____

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