

Minnesota Volunteer Fire Relief Association Working Group Meeting

Office of the State Auditor
Tuesday, December 6, 2016
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 9, 2016 Meeting Minutes
- III. Overview of PERA Voluntary Statewide Plan**
Presentation by Phil Coleman and Amy Collins, PERA
- IV. Review of Draft Language Updating the Definitions of Municipality and Fire Department**
Exhibit B. Prepared by Jason Kuenle, Office of the Revisor of Statutes
- V. Review of Draft Language Clarifying the Corporate Stock Investment Restriction**
Exhibit C.
- VI. Review of Draft Language Permitting Different Vesting Requirements for Certain Return-to-Service Members**
Exhibit D.
- VII. Other Business**
- VIII. Next Meeting**
Thursday, December 15, 2016
11 a.m. to 1 p.m.
Office of the State Auditor
- IX. Adjournment**

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Wednesday, November 9, 2016

11 a.m. to 1 p.m.

Members Present

Steve Donney, City of Harmony Mayor

Luke Fischer, City of Plymouth Administrative Services Director

Ron Johnson, Minnesota State Fire Department Association Representative (defined contribution plans)

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

Philip Jones, Eden Prairie Fire Relief Association Trustee (defined benefit monthly/lump sum plans)

Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)

Rebecca Otto, State Auditor

Nealon Thompson, Minnesota State Fire Chiefs Association Representative (defined benefit monthly/lump sum plans)

Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)

Members Excused

Dave Jaeger, Mahnomon Fire Relief Association Vice President (defined benefit lump sum plans)

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)

Others Present

Rachel Barth, Legislative Commission on Pension and Retirement Deputy Director

Harry Blaneck, Edina Fire Relief Association Representative

Aaron Dahl, Bergan KDV Representative

Candace Gislason, Van Iwaarden Associates Representative

Rose Hennessy Allen, Office of the State Auditor Pension Director

Nyle Zikmund, Minnesota State Fire Chiefs Association Representative

The following motions were duly made, seconded and approved:

RESOLVED to approve the October 20, 2016, Working Group Meeting Minutes; and

RESOLVED to approve draft language that prohibits the concurrent receipt of service credit in a relief association and in PERA for the same hours of service.

I. Call to Order

Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the October 20, 2016, meeting minutes that had been provided in advance. Johnston made a motion to adopt the minutes. Wall seconded the motion that was then adopted unanimously. Fischer abstained from voting as he was not in attendance at the October 20 meeting.

III. Overview of Return to Service Provision

At the last Working Group meeting there were some questions about the “return to service” provision in statute. A Statement of Position prepared by the Office of the State Auditor (OSA) was sent by email following the meeting. Auditor Otto provided a brief overview of the provision and offered that the OSA could do a survey to see how the provision is being used by relief associations. The Working Group members expressed interest in discussing a legislative change that would permit the monthly and monthly/lump sum combination relief associations to amend their bylaws to offer lower vesting requirements for firefighters who resume active service and membership after beginning receipt of a monthly service pension. Hennessy Allen explained that permitting defined benefit lump sum relief associations to establish different vesting requirements for different groups of members could result in unfunded liabilities and make the pension plans more difficult to administer. It was agreed that the topic would be revisited at the next Working Group meeting.

IV. Review of Concurrent Service Credit Issue

Auditor Otto shared that this topic was discussed last year by the Working Group and a legislative clarification was included in the Working Group bill. The legislative change was passed as part of the Omnibus Retirement Bill, but was then vetoed by the Governor. Questions about last year’s legislation were raised during the first Working Group meeting in the fall so the topic is being revisited. Auditor Otto explained that the PERA statutes clearly prohibit the concurrent receipt of pension credit. The relief association statutes need clarity. It was agreed that education on this topic needs to be provided to municipalities, fire departments, and to relief associations. Auditor Otto said that the OSA would reach out to the League of Minnesota Cities regarding the need for education. The Working Group members adopted the draft language unanimously.

V. Discussion of Duty-Crew Models and Relief Association Pension Eligibility

The Working Group members shared examples of duty-crew staffing models and discussed a firefighter’s pension eligibility under different staffing scenarios. The Working Group members identified questions about PERA eligibility thresholds and membership. Auditor Otto said that the OSA would contact PERA to get answers to the questions and would report back at the next meeting.

VI. Other Business

There was no other business.

VII. Next Meeting

Tuesday, December 6, 2016
11 a.m. to 1 p.m.
Office of the State Auditor

VIII. Adjournment

The meeting was adjourned at 12:35 p.m.

1.1 Section 1. Minnesota Statutes 2016, section 424A.001, subdivision 2, is amended to read:

1.2 Subd. 2. **Fire department.** "Fire department" includes a municipal fire department ~~or~~₂
 1.3 an independent nonprofit firefighting corporation, and a fire department serving a joint
 1.4 powers entity established under section 471.59.

1.5 Sec. 2. Minnesota Statutes 2016, section 424A.001, is amended by adding a subdivision
 1.6 to read:

1.7 Subd. 2a. **Municipal.** "Municipal" means of a city or township.

1.8 Sec. 3. Minnesota Statutes 2016, section 424A.001, subdivision 3, is amended to read:

1.9 Subd. 3. **Municipality.** "Municipality" means a ~~municipality~~ city or township which
 1.10 has established a fire department with which the relief association is directly associated, ~~or~~
 1.11 ~~the municipalities~~ a city or township which ~~have~~ has entered into a contract with the
 1.12 independent nonprofit firefighting corporation of which the relief association is ~~a subsidiary~~
 1.13 directly associated, or a city or township that has entered into a contract with a joint powers
 1.14 entity established under section 471.59 of which the relief association is directly associated.

1.15 Sec. 4. Minnesota Statutes 2016, section 424A.001, subdivision 10, is amended to read:

1.16 Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who is a member
 1.17 of the applicable fire department or the independent nonprofit firefighting corporation and
 1.18 is eligible for membership in the applicable relief association and:

1.19 (i) is engaged in providing emergency response services or delivering fire education or
 1.20 prevention services as a member of a ~~municipal~~ fire department, ~~a joint powers entity fire~~
 1.21 ~~department, or an independent nonprofit firefighting corporation;~~

1.22 (ii) is trained in or is qualified to provide fire suppression duties or to provide fire
 1.23 prevention duties under subdivision 8; and

1.24 (iii) meets any other minimum firefighter and service standards established by the fire
 1.25 department ~~or the independent nonprofit firefighting corporation~~ or specified in the articles
 1.26 of incorporation or bylaws of the relief association.

1.27 Sec. 5. Minnesota Statutes 2016, section 424A.002, subdivision 1, is amended to read:

1.28 Subdivision 1. **Authorization.** A ~~municipal~~ fire department ~~or an independent nonprofit~~
 1.29 ~~firefighting corporation~~, with approval by the applicable municipality or municipalities,
 1.30 may establish a new volunteer firefighter relief association or may retain an existing volunteer

2.1 firefighter relief association. A ~~municipal fire department or an independent nonprofit~~
 2.2 ~~firefighting corporation~~ may be associated with only one volunteer firefighter relief
 2.3 association at one time.

2.4 Sec. 6. Minnesota Statutes 2016, section 424A.01, subdivision 1, is amended to read:

2.5 Subdivision 1. **Minors.** No volunteer firefighters relief association associated with a
 2.6 municipality, a joint powers entity, or an independent nonprofit firefighting corporation
 2.7 may include as a relief association member a minor serving as a volunteer firefighter.

2.8 Sec. 7. Minnesota Statutes 2016, section 424A.01, subdivision 5, is amended to read:

2.9 Subd. 5. **Fire prevention personnel.** (a) If the ~~fire department is a municipal department~~
 2.10 ~~and the applicable municipality approves, or if the fire department is an independent nonprofit~~
 2.11 ~~firefighting corporation and the contracting municipality~~ or municipalities approve, the fire
 2.12 department may employ or otherwise utilize the services of persons as volunteer firefighters
 2.13 to perform fire prevention duties and to supervise fire prevention activities.

2.14 (b) Personnel serving in fire prevention positions are eligible to be members of the
 2.15 applicable volunteer firefighter relief association and to qualify for service pension or other
 2.16 benefit coverage of the relief association on the same basis as fire department personnel
 2.17 who perform fire suppression duties.

2.18 (c) Personnel serving in fire prevention positions also are eligible to receive any other
 2.19 benefits under the applicable law or practice for services on the same basis as personnel
 2.20 who are employed to perform fire suppression duties.

2.21 Sec. 8. Minnesota Statutes 2016, section 424A.015, subdivision 1, is amended to read:

2.22 Subdivision 1. **Separation from active service; exception.** (a) No service pension is
 2.23 payable to a person while the person remains an active member of the respective fire
 2.24 department, and a person who is receiving a service pension is not entitled to receive any
 2.25 other benefits from the special fund of the relief association.

2.26 (b) No relief association as defined in section 424A.001, subdivision 4, may pay a service
 2.27 pension or disability benefit to a former member of the relief association if that person has
 2.28 not separated from active service with the fire department to which the relief association is
 2.29 directly associated, unless:

3.1 (1) the person discontinues volunteer firefighter duties with the ~~municipality or the~~
 3.2 ~~independent nonprofit firefighting corporation, whichever applies,~~ fire department and
 3.3 performs duties within the ~~municipal~~ fire department ~~or corporation~~ on a full-time basis;

3.4 (2) the governing body of the municipality ~~or~~ of the independent nonprofit firefighting
 3.5 corporation, or of the joint powers entity has filed its determination with the board of trustees
 3.6 of the relief association that the person's experience with and service to the fire department
 3.7 in that person's full-time capacity would be difficult to replace; and

3.8 (3) the bylaws of the relief association were amended to provide for the payment of a
 3.9 service pension or disability benefit for such full-time employees.

3.10 Sec. 9. Minnesota Statutes 2016, section 424A.016, subdivision 2, is amended to read:

3.11 Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association,
 3.12 when its articles of incorporation or bylaws so provide, may pay out of the assets of its
 3.13 special fund a defined contribution service pension to each of its members who:

3.14 (1) separates from active service with the fire department;

3.15 (2) reaches age 50;

3.16 (3) completes at least five years of active service as an active member of the ~~municipal~~
 3.17 fire department to which the relief association is associated;

3.18 (4) completes at least five years of active membership with the relief association before
 3.19 separation from active service; and

3.20 (5) complies with any additional conditions as to age, service, and membership that are
 3.21 prescribed by the bylaws of the relief association.

3.22 (b) In the case of a member who has completed at least five years of active service as
 3.23 an active member of the fire department to which the relief association is associated on the
 3.24 date that the relief association is established and incorporated, the requirement that the
 3.25 member complete at least five years of active membership with the relief association before
 3.26 separation from active service may be waived by the board of trustees of the relief association
 3.27 if the member completes at least five years of inactive membership with the relief association
 3.28 before the date of the payment of the service pension. During the period of inactive
 3.29 membership, the member is not entitled to receive any disability benefit coverage, is not
 3.30 entitled to receive additional individual account allocation of fire state aid or municipal
 3.31 contribution towards a service pension, and is considered to have the status of a person
 3.32 entitled to a deferred service pension.

4.1 (c) The service pension earned by a volunteer under this chapter and the articles of
4.2 incorporation and bylaws of the relief association may be paid whether or not the municipality
4.3 or independent nonprofit firefighting corporation to which the relief association is associated
4.4 qualifies for the receipt of fire state aid under chapter 69.

4.5 Sec. 10. Minnesota Statutes 2016, section 424A.02, subdivision 1, is amended to read:

4.6 Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles
4.7 of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined
4.8 benefit service pension to each of its members who: (1) separates from active service with
4.9 the fire department; (2) reaches age 50; (3) completes at least five years of active service
4.10 as an active member of the ~~municipal~~ fire department to which the relief association is
4.11 associated; (4) completes at least five years of active membership with the relief association
4.12 before separation from active service; and (5) complies with any additional conditions as
4.13 to age, service, and membership that are prescribed by the bylaws of the relief association.
4.14 A service pension computed under this section may be prorated monthly for fractional years
4.15 of service as the bylaws or articles of incorporation of the relief association so provide. The
4.16 bylaws or articles of incorporation may define a "month," but the definition must require a
4.17 calendar month to have at least 16 days of active service. If the bylaws or articles of
4.18 incorporation do not define a "month," a "month" is a completed calendar month of active
4.19 service measured from the member's date of entry to the same date in the subsequent month.
4.20 The service pension earned by a volunteer firefighter under this chapter and the articles of
4.21 incorporation and bylaws of the volunteer firefighters relief association may be paid whether
4.22 or not the municipality or independent nonprofit firefighting corporation to which the relief
4.23 association is associated qualifies for the receipt of fire state aid under chapter 69.

4.24 (b) In the case of a member who has completed at least five years of active service as
4.25 an active member of the fire department to which the relief association is associated on the
4.26 date that the relief association is established and incorporated, the requirement that the
4.27 member complete at least five years of active membership with the relief association before
4.28 separation from active service may be waived by the board of trustees of the relief association
4.29 if the member completes at least five years of inactive membership with the relief association
4.30 before the date of the payment of the service pension. During the period of inactive
4.31 membership, the member is not entitled to receive disability benefit coverage, is not entitled
4.32 to receive additional service credit towards computation of a service pension, and is
4.33 considered to have the status of a person entitled to a deferred service pension under
4.34 subdivision 7.

5.1 (c) No municipality ~~or~~, independent nonprofit firefighting corporation, or joint powers
5.2 entity may delegate the power to take final action in setting a service pension or ancillary
5.3 benefit amount or level to the board of trustees of the relief association or to approve in
5.4 advance a service pension or ancillary benefit amount or level equal to the maximum amount
5.5 or level that this chapter would allow rather than a specific dollar amount or level.

5.6 Sec. 11. Minnesota Statutes 2016, section 424A.02, subdivision 3a, is amended to read:

5.7 Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a) If a
5.8 defined benefit relief association pays a service pension greater than the maximum service
5.9 pension associated with the applicable average amount of available financing per active
5.10 covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies,
5.11 the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum
5.12 service pension amount specified in subdivision 3, paragraph (g), whichever is less, the
5.13 state auditor shall:

5.14 (1) disqualify the municipality or the independent nonprofit firefighting corporation
5.15 associated with the relief association from receiving fire state aid by making the appropriate
5.16 notification to the municipality and the commissioner of revenue, with the disqualification
5.17 applicable for the next apportionment and payment of fire state aid; and

5.18 (2) order the treasurer of the applicable relief association to recover the amount of the
5.19 overpaid service pension or pensions from any retired firefighter who received an
5.20 overpayment.

5.21 (b) Fire state aid amounts from disqualified municipalities for the period of
5.22 disqualifications under paragraph (a), clause (1), must be credited to the amount of fire
5.23 insurance premium tax proceeds available for the next subsequent fire state aid
5.24 apportionment.

5.25 (c) The amount of any overpaid service pension recovered under paragraph (a), clause
5.26 (2), must be credited to the amount of fire insurance premium tax proceeds available for
5.27 the next subsequent fire state aid apportionment.

5.28 (d) The determination of the state auditor that a relief association has paid a service
5.29 pension greater than the applicable maximum must be made on the basis of the information
5.30 filed by the relief association and the municipality with the state auditor under sections
5.31 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other
5.32 relevant information that comes to the attention of the state auditor. The determination of

6.1 the state auditor is final. An aggrieved municipality, relief association, or person may appeal
6.2 the determination under section 480A.06.

6.3 (e) The state auditor may certify, upon learning that a relief association overpaid a service
6.4 pension based on an error in the maximum service pension calculation, the municipality or
6.5 independent nonprofit firefighting corporation associated with the relief association for fire
6.6 state aid if (1) there is evidence that the error occurred in good faith, and (2) the relief
6.7 association has initiated recovery of any overpayment amount. Notwithstanding paragraph
6.8 (c), all overpayments recovered under this paragraph must be credited to the relief
6.9 association's special fund.

6.10 Sec. 12. Minnesota Statutes 2016, section 424A.02, subdivision 7, is amended to read:

6.11 Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association
6.12 is entitled to a deferred service pension if the member separates from active service and
6.13 membership and has completed the minimum service and membership requirements in
6.14 subdivision 1. The requirement that a member separate from active service and membership
6.15 is waived for persons who have discontinued their volunteer firefighter duties and who are
6.16 employed on a full-time basis under section 424A.015, subdivision 1.

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

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

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

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

6.31 (3) at an interest rate of up to five percent, compounded annually, as set by the board of
6.32 trustees.

7.1 (d) Any change in the interest rate set by the board of trustees under paragraph (c), clause
7.2 (3), must be ratified by the governing body of the municipality or joint powers entity served
7.3 by the fire department to which the relief association is directly associated, or by the
7.4 independent nonprofit firefighting corporation, as applicable.

7.5 (e) Interest under paragraph (c), clause (3), is payable beginning on the January 1 next
7.6 following the date on which the deferred service pension interest rate as set by the board of
7.7 trustees was ratified by the governing body of the municipality or joint powers entity served
7.8 by the fire department to which the relief association is directly associated, or by the
7.9 independent nonprofit firefighting corporation, as applicable.

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

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

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

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

8.1 Sec. 13. Minnesota Statutes 2016, section 424A.04, subdivision 1, is amended to read:

8.2 Subdivision 1. **Membership.** (a) A relief association that is directly associated with a
8.3 municipal fire department must be managed by a board of trustees consisting of nine
8.4 members. Six trustees must be elected from the membership of the relief association and
8.5 three trustees must be drawn from the officials of the municipalities served by the fire
8.6 department to which the relief association is directly associated. The bylaws of a relief
8.7 association which provides a monthly benefit service pension may provide that one of the
8.8 six trustees elected from the relief association membership may be a retired member receiving
8.9 a monthly pension who is elected by the membership of the relief association. The three
8.10 municipal trustees must be one elected municipal official and one elected or appointed
8.11 municipal official who are designated as municipal representatives by the municipal
8.12 governing board annually and the chief of the municipal fire department.

8.13 (b) A relief association that is a subsidiary of an independent nonprofit firefighting
8.14 corporation must be managed by a board of trustees consisting of nine members. Six trustees
8.15 must be elected from the membership of the relief association, two trustees must be drawn
8.16 from the officials of the municipalities served by the fire department to which the relief
8.17 association is directly associated, and one trustee must be the fire chief serving with the
8.18 independent nonprofit firefighting corporation. The bylaws of a relief association may
8.19 provide that one of the six trustees elected from the relief association membership may be
8.20 a retired member receiving a monthly pension who is elected by the membership of the
8.21 relief association. The two municipal trustees must be elected or appointed municipal
8.22 officials, selected as follows:

8.23 (1) if only one municipality contracts with the independent nonprofit firefighting
8.24 corporation, the municipal trustees must be two officials of the contracting municipality
8.25 who are designated annually by the governing body of the municipality; or

8.26 (2) if two or more municipalities contract with the independent nonprofit corporation,
8.27 the municipal trustees must be one official from each of the two largest municipalities in
8.28 population who are designated annually by the governing bodies of the applicable
8.29 municipalities.

8.30 (c) The municipal trustees for a relief association that is directly associated with a fire
8.31 department operated as or by a joint powers entity must be the fire chief of the fire department
8.32 and two trustees designated annually by the joint powers board. The municipal trustees for
8.33 a relief association that is directly associated with a fire department service area township

9.1 must be the fire chief of the fire department and two trustees designated by the township
9.2 board.

9.3 (d) If a relief association lacks the municipal board members provided for in paragraph
9.4 (a), (b), or (c) because the fire department is not located in or associated with ~~an organized~~
9.5 a municipality, or joint powers entity, or township, the municipal board members must be
9.6 the fire chief of the fire department and two board members appointed from the fire
9.7 department service area by the board of commissioners of the applicable county.

9.8 (e) The term of the appointed municipal board members is one year or until the person's
9.9 successor is qualified, whichever is later.

9.10 (f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights and duties
9.11 accorded to any other trustee, except the right to be an officer of the relief association board
9.12 of trustees.

9.13 (g) A board must have at least three officers, who are a president, a secretary and a
9.14 treasurer. These officers must be elected from among the elected trustees by either the full
9.15 board of trustees or by the relief association membership, as specified in the bylaws. In no
9.16 event may any trustee hold more than one officer position at any one time. The terms of the
9.17 elected trustees and of the officers of the board must be specified in the bylaws of the relief
9.18 association, but may not exceed three years. If the term of the elected trustees exceeds one
9.19 year, the election of the various trustees elected from the membership must be staggered
9.20 on as equal a basis as is practicable.

9.21 Sec. 14. Minnesota Statutes 2016, section 424A.07, is amended to read:

9.22 **424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT**
9.23 **OF RELIEF ASSOCIATIONS.**

9.24 Before paying any service pensions or retirement benefits under section 424A.02 or
9.25 before becoming entitled to receive any amounts of fire state aid upon transmittal from a
9.26 contracting municipality under section 69.031, subdivision 5, a an independent nonprofit
9.27 firefighting corporation shall establish a volunteer firefighters relief association governed
9.28 by this chapter.

9.29 Sec. 15. Minnesota Statutes 2016, section 424A.091, subdivision 3, is amended to read:

9.30 Subd. 3. **Remedy for noncompliance; determination.** (a) A municipality in which
9.31 there exists a firefighters relief association as specified in subdivision 1 which does not
9.32 comply with the applicable provisions of sections 424A.091 to 424A.096 or the provisions

10.1 of any applicable special law relating to the funding or financing of the association does
10.2 not qualify initially to receive, and is not entitled subsequently to retain, fire state aid under
10.3 sections 69.011 to 69.051 until the reason for the disqualification specified by the state
10.4 auditor is remedied, whereupon the municipality or relief association, if otherwise qualified,
10.5 is entitled to again receive fire state aid for the year occurring immediately subsequent to
10.6 the year in which the disqualification is remedied.

10.7 (b) The state auditor shall determine if a municipality to which a firefighters' relief
10.8 association is directly associated or a firefighters relief association fails to comply with the
10.9 provisions of sections 424A.091 to 424A.096 or the funding or financing provisions of any
10.10 applicable special law based upon the information contained in the annual financial report
10.11 of the firefighters relief association required under section 69.051, the actuarial valuation
10.12 of the relief association, if applicable, the relief association officers' financial requirements
10.13 of the relief association and minimum municipal obligation determination documentation
10.14 under section 424A.092, subdivisions 3 and 4; 424A.093, subdivisions 4 and 5; or 424A.094,
10.15 subdivision 2, if requested to be filed by the state auditor, the applicable municipal or
10.16 independent nonprofit firefighting corporation budget, if requested to be filed by the state
10.17 auditor, and any other relevant documents or reports obtained by the state auditor.

10.18 (c) The municipality or independent nonprofit firefighting corporation and the associated
10.19 relief association are not eligible to receive or to retain fire state aid if:

10.20 (1) the relief association fails to prepare or to file the financial report or financial
10.21 statement under section 69.051;

10.22 (2) the relief association treasurer is not bonded in the manner and in the amount required
10.23 by section 69.051, subdivision 2;

10.24 (3) the relief association officers fail to determine or improperly determine the accrued
10.25 liability and the annual accruing liability of the relief association under section 424A.092,
10.26 subdivisions 2, 2a, and 3, paragraph (c), clause (2), if applicable;

10.27 (4) if applicable, the relief association officers fail to obtain and file a required actuarial
10.28 valuation or the officers file an actuarial valuation that does not contain the special fund
10.29 actuarial liability calculated under the entry age normal actuarial cost method, the special
10.30 fund current assets, the special fund unfunded actuarial accrued liability, the special fund
10.31 normal cost under the entry age normal actuarial cost method, the amortization requirement
10.32 for the special fund unfunded actuarial accrued liability by the applicable target date, a
10.33 summary of the applicable benefit plan, a summary of the membership of the relief
10.34 association, a summary of the actuarial assumptions used in preparing the valuation, and a

11.1 signed statement by the actuary attesting to its results and certifying to the qualifications of
11.2 the actuary as an approved actuary under section 356.215, subdivision 1, paragraph (c);

11.3 (5) the municipality failed to provide a municipal contribution, or the independent
11.4 nonprofit firefighting corporation failed to provide a corporate contribution, in the amount
11.5 equal to the minimum municipal obligation if the relief association is governed under section
11.6 424A.092, or the amount necessary, when added to the fire state aid actually received in
11.7 the plan year in question, to at least equal in total the calculated annual financial requirements
11.8 of the special fund of the relief association if the relief association is governed under section
11.9 424A.093, and, if the municipal or corporate contribution is deficient, the municipality
11.10 failed to include the minimum municipal obligation certified under section 424A.092,
11.11 subdivision 3, or 424A.093, subdivision 5, in its budget and tax levy or the independent
11.12 nonprofit firefighting corporation failed to include the minimum corporate obligation certified
11.13 under section 424A.094, subdivision 2, in the corporate budget;

11.14 (6) the defined benefit relief association did not receive municipal ratification for the
11.15 most recent plan amendment when municipal ratification was required under section 424A.02,
11.16 subdivision 10; 424A.092, subdivision 6; or 424A.093, subdivision 6;

11.17 (7) the relief association invested special fund assets in an investment security that is
11.18 not authorized under section 424A.095;

11.19 (8) the relief association had an administrative expense that is not authorized under
11.20 section 69.80 or 424A.05, subdivision 3, or the municipality had an expenditure that is not
11.21 authorized under section 424A.08;

11.22 (9) the relief association officers fail to provide a complete and accurate public pension
11.23 plan investment portfolio and performance disclosure under section 356.219;

11.24 (10) the relief association fails to obtain the acknowledgment from a broker of the
11.25 statement of investment restrictions under section 356A.06, subdivision 8b;

11.26 (11) the relief association officers permitted to occur a prohibited transaction under
11.27 section 356A.06, subdivision 9, or 424A.04, subdivision 2a, or failed to undertake correction
11.28 of a prohibited transaction that did occur; or

11.29 (12) the relief association pays a defined benefit service pension in an amount that is in
11.30 excess of the applicable service pension maximum under section 424A.02, subdivision 3.

12.1 Sec. 16. Minnesota Statutes 2016, section 424A.094, subdivision 3, is amended to read:

12.2 Subd. 3. **Authorized pension disbursements.** Authorized disbursements of assets of
12.3 the special fund of the subsidiary relief association of the independent nonprofit firefighting
12.4 corporation shall be governed by the provisions of section 424A.05.

12.5 Sec. 17. Minnesota Statutes 2016, section 424A.10, subdivision 1, is amended to read:

12.6 Subdivision 1. **Definitions.** For purposes of this section:

12.7 (1) "qualified recipient" means an individual who receives a lump-sum distribution of
12.8 pension or retirement benefits from a volunteer firefighters relief association or from the
12.9 voluntary statewide lump-sum volunteer firefighter retirement plan for service that the
12.10 individual has performed as a volunteer firefighter;

12.11 (2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving
12.12 spouse of a deceased active or deferred volunteer firefighter or, if none, the surviving child
12.13 or children of a deceased active or deferred volunteer firefighter;

12.14 (3) "active volunteer firefighter" means a person who regularly renders fire suppression
12.15 service for a ~~municipal fire department or an independent nonprofit firefighting corporation,~~
12.16 who has met the statutory and other requirements for relief association membership, and
12.17 who is deemed by the relief association under law and its bylaws to be a fully qualified
12.18 member of the relief association or from the voluntary statewide lump-sum volunteer
12.19 firefighter retirement plan for at least one month; and

12.20 (4) "deferred volunteer firefighter" means a former active volunteer firefighter who
12.21 terminated active firefighting service, has sufficient service credit from the applicable relief
12.22 association or from the voluntary statewide lump-sum volunteer firefighter retirement plan
12.23 to be entitled to a service pension under the bylaws of the relief association, but has not
12.24 applied for or has not received the service pension.

Exhibit C

Corporate Stock Restriction

Topic:

Several years ago the Office of the State Auditor convened an Investment Study Group to study the investment statutes governing public pension plans and the State Board of Investment. Many of the statutes had been added on a piecemeal approach and they had not been reviewed in their entirety in a long time. One of the main goals of the Investment Study Group was to change the statutes so that compliance would be measured based on the underlying securities owned by the pension plan and not by how the securities were purchased. Thus the amended language to the pension investment statutes provided that securities could be owned directly, or through exchange-traded funds, mutual funds, or unit trusts. Regardless of how the securities were owned, the securities themselves would need to be authorized on either the limited or expanded list of authorized investment securities.

When the Investment Study Group updated the statutes some language in the corporate stock provision on the expanded list was missed. This language creates a loophole by which a relief association can invest in any mutual funds or exchange-traded funds without limitation, even those that hold precious metals, commodities, futures, or other speculative securities. To date, we have seen the loophole used to permit relief associations to invest in leveraged and inverse mutual funds.

An optional change is provided below that would update the corporate stock authority on the expanded list of authorized investment securities to be in keeping with the Investment Study Group's goal and make the expanded list consistent.

Optional Change:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

Subd. 7. Expanded list of authorized investment securities. (a) **Authority.** A covered pension plan not described by subdivision 6, paragraph (a), is an expanded list plan and shall invest its assets as specified in this subdivision. The governing board of an expanded list plan may select and appoint investment agencies to act for or on its behalf.

(b) **Securities generally; investment forms.** An expanded list plan is authorized to purchase, sell, lend, and exchange the investment securities authorized under this subdivision, including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned directly or through shares in exchange-traded or mutual funds, or as units in commingled trusts, subject to any limitations specified in this subdivision.

...

(g) **Corporate stocks.** An expanded list plan is authorized to invest in stocks or convertible issues of any corporation organized under the laws of the United States or any of its states, any corporation organized under the laws of the Dominion of Canada or any of its provinces, or any corporation listed on an exchange that is regulated by an agency of the United States or of the Canadian national government.

An investment in any corporation must not exceed five percent of the total outstanding shares of that corporation, ~~except that an expanded list plan may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed mutual fund.~~ Purchase of shares of exchange-traded or mutual funds shall be consistent with paragraph (b).

Exhibit D
**Permitting Different Vesting Requirements
for Certain Return-to-Service Members**

Topic:

If a firefighter is paid a lump sum service pension or is receiving a monthly benefit service pension and the firefighter resumes active service and relief association membership, the firefighter is currently required to complete the same vesting requirements as all other members of the relief association to be eligible for a second service pension. There appears to be interest in allowing relief associations that pay monthly benefit service pensions to establish different vesting requirements for firefighters who return to active service and membership after being paid a service pension. Members who are paid monthly service pensions have a financial incentive to retire and commence receipt of the monthly benefits as soon as they become eligible to do so because otherwise benefits are lost for each month that they are not yet collecting. This has resulted in some firefighters retiring before they may have otherwise elected. Reducing vesting requirements for these returning firefighters has been suggested as a way to help retain them and keep them in the fire service. The current statutory minimum vesting requirement is five years.

The defined-benefit monthly and monthly/lump sum combination relief associations are required to have an actuarial valuation prepared regularly that determines the accrued liabilities and minimum financial requirements. Offering different vesting requirements for different groups of members could be factored into the liability calculations performed by the actuary. In contrast, the defined-benefit lump sum relief associations annually complete the Schedule Form that is provided by the Office of the State Auditor. The Schedule Form calculations do not easily accommodate different vesting requirements.

If the Working Group decides to pursue a legislative change, the questions below should be considered.

Considerations:

1. Should the different vesting requirement be available only to monthly benefit recipients or to both monthly benefit and lump sum benefit recipients in a monthly/lump sum combination relief association?
2. Are there any others?