

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

Office of the State Auditor  
Tuesday, November 13, 2007  
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 1, 2007 Minutes

**III. Old Business**

Exhibits B – E.

- Ancillary Benefit Language/Reductions
- Funeral Benefits
- Surviving Spouse Definition

**IV. Deferred Interest Issues**

Exhibit F. Minn. Stat. § 424A.02, subd. 7

- Expiration of the OSA Return Option
- Interest Allocation Method
- Municipal Approval

**V. Other Business**

- Update on FRPAS
- Update on the Statewide Plan (for informational purposes only)

**VI. Next Meeting**

Thursday, November 29, 2007

11 a.m. to 1 p.m.

Office of the State Auditor

**VII. Adjournment**

# **Volunteer Fire Relief Association Working Group**

Office of the State Auditor  
Thursday, November 1, 2007  
11 a.m. to 1 p.m.

## **Members Present**

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

## **Members Excused**

Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)  
Steven Wallner, Watertown City Finance Director

## **Others Present**

Wayne Anderson, Coon Rapids Fire Relief Association Representative  
Colleen Bollom, Minnesota Firefighter Pension Consultants Representative  
Aaron Dahl, Pension Analyst  
Celeste Grant, Deputy State Auditor/General Counsel  
Rose Hennessy Allen, Pension Director  
Craig Hertog, Loretto Fire Relief Association Representative  
Mike Miller, Integra Shield Financial Group Representative  
Paul Rosen, Pension Analyst  
Laura Sayles, DFL House Caucus Research Consultant

The following motion was duly made, seconded and approved:

RESOLVED to approve the October 23, 2007 Meeting Minutes.

**I. Call to Order**

Chair Auditor Otto called the meeting to order.

**II. Review and Approval of Working Group Meeting Minutes**

The Working Group members reviewed the October 23 meeting minutes that had been provided in advance. Auditor Otto asked to confirm the Group's intent to pass a motion even if one member is in opposition. The members confirmed the intent and had no changes to the minutes. Hansen moved to approve the minutes. Stroeing seconded the motion, which was adopted unanimously.

**III. Ancillary Benefit Issues**

- **Benefit Reductions**

Ancillary benefits are survivor, disability, and funeral benefits. These benefits are optional for relief associations. State law currently requires relief associations that elect to pay an ancillary benefit to offer the benefit to all members, whether vested or not, and to pay the benefit without regard to the maximum statutory vesting percentage amounts. Martin provided context for the statutory provision, which dates back to 1979. Martin explained that the general nature of relief association laws is to make things permissible, with certain limitations or maximums

After much discussion, the members agreed that the benefits should be optional. If a relief association chooses to pay an ancillary benefit, the question is whether the benefit must be paid at 100 percent, or whether reducing the benefit could be permissive, if allowed under the bylaws. The members also agreed to reorganize the statutory language so that the provision is easier to read.

Zikmund made a motion to clarify state law so that ancillary benefits are optional, but if a relief association elects to pay an ancillary benefit, the benefit must not be reduced by vesting percentages (i.e. paid at 100 percent). Zikmund amended his motion to also remove the optional five-year minimum for survivor benefits that is provided under current law. Stroeing seconded the motion. After discussion, Zikmund amended his motion so that the five-year minimum is left unchanged.

- **Age Requirements**

Auditor Otto explained that at a previous Working Group meeting two years ago, a minimum age requirement was discussed for disability benefits. Martin and Grant clarified for the members that current law does not require that ancillary benefits be paid immediately. A relief association therefore has the authority to set a minimum age requirement under its bylaws for payment of an ancillary benefit. The Working Group members decided that they preferred the way it is right now where each relief association can reflect a minimum age in their by-laws, and saw no need to further restrict it in statute.

#### **IV. Funeral Benefits**

State law limits the total ancillary benefits that can be paid to a member's total earned service pension amount. If a relief association pays a survivor benefit that is equal to the member's total earned service pension, no additional funeral benefit could be disbursed out of the special fund. The Group discussed one option which was whether a change to state law should be made to clarify that either a survivor or a funeral benefit could be paid, but not both. Another option the members discussed was whether to remove the authority to pay a funeral benefit from the list of authorized special fund disbursements (it would still be permissible to be paid out of the general fund).

Martin explained that the provision that lists the authorized special fund disbursements is an old provision that was held over from the pre-1979 law. Funeral benefits may have been used as a tool to pay a beneficiary if there were no surviving spouse or children, before designated beneficiaries became authorized benefit recipients. A point was made that current law allows for both to be paid if done correctly, and that the issue may be more of an educational issue and not require a law change, unless the members want to add language to state law to clarify that only a survivor or a funeral benefit to be paid, but not both.

Jaeger made a motion to allow payment of a survivor benefit or a funeral benefit from the special fund, but not both. Martin explained that the motion essentially reflects current law, although it may represent a restriction for monthly plans. Jaeger withdrew his motion and made a motion that the item be tabled until the next meeting, so that all of the members representing monthly and combination plans can be present. Dietz seconded the motion to table the item, which was adopted unanimously.

#### **V. Surviving Spouse Definition**

The members reviewed the surviving spouse definitions for volunteer fire relief associations and for the Public Employees Retirement Association (PERA). Martin explained that the relief association definition is an old provision that was based on language used by local paid police and fire plans at the time. Zikmund made a motion to change the relief association definition to reflect the PERA definition, except that the surviving spouse would need to be married to the member at the time of separation. Hansen seconded the motion. After discussion, Zikmund withdrew his motion and moved to table the item until the next meeting. There was agreement that all of these items were tied together, and the group wanted to explore the possibility of cleaning up these sections in statute to make it easier to understand and follow. There was also agreement that we should proceed very cautiously to ensure that it did not create any unintended consequences.

#### **VI. Other Business**

An update on the Statewide Plan proposal (for informational purposes only) will be given by Zikmund at the next meeting. Auditor Otto will also provide an update on FRPAS at the next meeting.

**VII. Next Meeting Date**

The next meeting will be held from 11 a.m. to 1 p.m. on Tuesday, November 13, 2007 in the Office of the State Auditor's Conference Room.

**VIII. Adjournment**

A motion was made to adjourn the meeting, which was seconded and approved unanimously. The meeting was adjourned at 1:11 p.m.

To the extent that the commissioner of commerce deems it to be necessary or practical, the commissioner may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to this subdivision.

**Subd. 8a. Purchase of annuity contracts.** A relief association providing a lump-sum service pension, if the governing articles of incorporation or bylaws so provide, may purchase an annuity contract on behalf of a retiring member in an amount equal to the service pension otherwise payable at the request of the person and in place of a direct payment to the person. The annuity contract must be purchased from an insurance carrier licensed to do business in this state and approved for this product by the commerce commissioner under section 60A.40.

**Subd. 8b. Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the federal Internal Revenue Code, as amended, and that provides a lump sum service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer the eligible member's lump sum pension or the death, funeral, or survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the federal Internal Revenue Code, as amended.

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

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

(2) with respect to any relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated using the service pension amount specified in the bylaws of the relief association and the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

**Subd. 9a. Postretirement increases.** Notwithstanding any provision of general or special law to the contrary, a relief association paying a monthly service pension may provide a postretirement increase to retired members and ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The postretirement increase shall be applicable only to retired members and ancillary benefit recipients receiving a service pension or ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a postretirement increase to retired members and ancillary benefit recipients of a relief association contained in this sub-



## 424A.05, Minnesota Statutes 2007

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### 424A.05 RELIEF ASSOCIATION SPECIAL FUND.

Subdivision 1. **Establishment of special fund.** Every relief association shall establish and maintain a special fund within the relief association.

Subd. 2. **Special fund assets and revenues.** The special fund shall be credited with all fire state aid moneys received pursuant to sections [69.011](#) to [69.051](#), all taxes levied by or other revenues received from the municipality pursuant to sections [69.771](#) to [69.776](#) or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest earned upon the assets of the special fund. The treasurer of the relief association shall be the custodian of the assets of the special fund and shall be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association shall be public and shall be open for inspection by any member of the relief association, any officer or employee of the state or the municipality, or any member of the public, at reasonable times and places.

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

- (1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;
- (2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (3) for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active firefighter, if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (4) for the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;
- (5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association in order to entitle relief association members to membership in and the benefits of these associations or organizations; and
- (6) for the payment of administrative expenses of the relief association as authorized under section [69.80](#).

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

Subd. 4. **Investments of assets of the special fund.** The assets of the special fund shall be invested only in securities authorized by section [69.775](#).

**History:** 1979 c 201 s 15; 1981 c 224 s 211; 1981 c 224 s 274; 1983 c 219 s 9; 2000 c 461 art 15 s 11; 2006 c 271 art 13 s 4

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### 424A.001, Minnesota Statutes 2007

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#### 424A.001 DEFINITIONS.

Subdivision 1. **Terms defined.** As used in this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Fire department.** "Fire department" includes municipal fire department and independent nonprofit firefighting corporation.

Subd. 3. **Municipality.** "Municipality" means a municipality which has a fire department with which the relief association is directly associated, or the municipalities which contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.

Subd. 4. **Relief association.** "Relief association" means (a) a volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association organized and incorporated under chapter 317A and any laws of the state, governed by this chapter and chapter 69, and directly associated with a fire department established by municipal ordinance; or (b) any separate incorporated volunteer firefighters' relief association subsidiary to and providing service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation organized under the provisions of chapter 317A, governed by this chapter, and operating exclusively for firefighting purposes. A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Subd. 5. **Special fund.** "Special fund" means special fund of a volunteer firefighters' relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters' relief association.

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the governing bylaws of any relief association to which this chapter applies, the term "surviving spouse" means any person who was the dependent spouse of a deceased active member or retired former member living with the member at the time of the death of the active member or retired former member for at least one year prior to the date on which the member terminated active service and membership.

Subd. 7. **Fiduciary responsibility.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section [11A.09](#). In addition, the trustees must act in accordance with chapter 356A.

Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section [11A.09](#), and in a manner consistent with chapter 356A. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a

board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality approves for a fire department that is a municipal department, or if the contracting municipality or municipalities approve for a fire department that is an independent nonprofit firefighting corporation, includes service rendered by fire prevention personnel.

Subd. 9. **Separate from active service.** "Separate from active service" means to permanently cease to perform fire suppression duties with a particular volunteer fire department, to permanently cease to perform fire prevention duties, to permanently cease to supervise fire suppression duties, and to permanently cease to supervise fire prevention duties.

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who:

(1) was a member of the applicable fire department or the firefighting corporation and a member of the relief association on July 1, 2006; or

(2) became a member of the applicable fire department or the firefighting corporation and is eligible for membership in the applicable relief association after June 30, 2006, and

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

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

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

**History:** 1983 c 219 s 4; 1986 c 359 s 18,19; 1Sp1986 c 3 art 2 s 40; 1989 c 304 s 137; 1989 c 319 art 8 s 26; 1996 c 438 art 8 s 1,2; 2000 c 461 art 15 s 4; 2006 c 271 art 13 s 2

**NOTE:** Subdivision 10 as added by Laws 2006, chapter 271, article 13, section 2, is effective January 1, 2008. Laws 2006, chapter 271, article 13, section 7.

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Subd. 17a. **Average salary.** (a) "Average salary," for purposes of calculating a retirement annuity under section 353.29, subdivision 3, means an amount equivalent to the average of the highest salary of the member, police officer, or firefighter, whichever applies, upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports. Average salary must be based upon all allowable service if this service is less than five years.

(b) "Average salary" may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher, including this period.

Subd. 18. **Year of allowable service.** "Year of allowable service" means any 12 calendar months not necessarily consecutive in which a public employee received compensation from the governmental subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year.

Subd. 19. **Total and permanent disability.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration. Long-continued and indefinite duration means that the disability has been or is expected to be for a period of at least one year.

Subd. 20. **Surviving spouse.** "Surviving spouse" means the spouse of a deceased member or disabilitant who was legally married to the member at the time of death.

Subd. 21. [Repealed, 1971 c 106 s 40]

Subd. 22. [Repealed, 1971 c 106 s 40]

Subd. 23. **Retirement annuity.** "Retirement annuity" means the amount paid or payable by the fund to a former member after retirement.

Subd. 24. **Optional annuity.** "Optional annuity" means the allowance paid or payable by the fund to the designated optional annuity beneficiary of a member or former member, pursuant to an optional annuity form selected at or before retirement, or to the spouse of a deceased member under section 353.32, subdivision 1a.

Subd. 25. [Repealed, 1973 c 753 s 85]

Subd. 26. [Repealed, 1971 c 106 s 40]

Subd. 27. **Benefit.** "Benefit" means a monthly survivor benefit paid or payable by the fund to a surviving spouse or a dependent child and also includes a monthly disability benefit paid or payable by the fund to a member who is totally and permanently disabled.

Subd. 28. **Retirement.** (a) "Retirement" means the commencement of payment of an annuity based on a date designated by the board of trustees. This date determines the rights under this chapter which occur either before or after retirement. A right to retirement is subject to termination of public service under subdivision 11a. A right to retirement requires a complete and continuous separation for 30 days from employment as a public employee and from the provision of paid services to that employer.

(b) An individual who separates from employment as a public employee and who, within 30 days of separation, returns to provide service to a governmental subdivision as an independent contractor or as an employee of an independent contractor, has not satisfied separation requirements under paragraph (a).

(c) A former member of the basic or police and fire fund who becomes a coordinated member upon returning to eligible, nontemporary public service, terminates employment before obtaining six months' allowable service under subdivision 16, paragraph (a), in the coordinated fund, and is eligible to receive an annuity the first day of the month after the most recent termination date shall not accrue a right to a retirement annuity under the coordinated fund. An annuity otherwise payable to the former member must be based on the laws in effect on the date of termination of the most recent service under the basic or police and fire fund and shall be retroactive to the first day of the month following that termination date or one year preceding the filing of an application for retirement annuity as provided by section

tribution lump sum service pension in lieu of any defined benefit service pension governed by subdivision 2.

(b) An individual account for each firefighter who is a member of the relief association must be established. To each individual active member account must be credited an equal share of: (1) any amounts of fire state aid received by the relief association; (2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid; and (3) any amounts equal to the share of the assets of the special fund to the credit of: (i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 1 and has not returned to active service with the fire department for a period no shorter than five years; or (ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2 and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account through the date on which the investment return is recognized by and credited to the special fund.

(c) At the time of retirement under subdivision 1 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 2 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

Subd. 5. [Repealed, 1999 c 222 art 11 s 1]

Subd. 6. **Payment of service pensions; nonassignability.** The method of calculating service pensions shall be applied uniformly for all years of active service and credit shall be given for all years of active service, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective fire department, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association. No service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits shall be subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

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

- (1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;
- (2) has completed at least five years of active membership in the relief association; and
- (3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

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

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

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

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

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

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

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

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

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

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

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

**Subd. 8. Lump sum service pensions; installment payments.** Any relief association, if the governing bylaws so provide, may pay, at the option of the retiring member and in lieu of a single payment of a lump sum service pension, a lump sum service pension in installments.

The election of installment payments shall be irrevocable and shall be made by the retiring member in writing and filed with the secretary of the relief association no later than 30 days prior to the commencement of payment of the service pension. The amount of the installment payments shall be determined so that the present value of the aggregate installment payments computed at an interest rate of five percent, compounded annually, is equal to the amount of the single lump sum payment which would have been made had the installment payments option not been elected. The payment of each installment shall include interest at the rate of five percent, compounded annually on the reserve supporting the remaining installment payments as of the date on which the previous installment payment was paid and computed from the date on which the previous installment payment was paid to the date of payment for the current installment payment.

new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension shall be based upon years of service in the new department only, and shall be in an amount equal to the accrued liability for the appropriate years of service calculated in accordance with section 69.772, subdivision 2.

**Subd. 13. Combined service pensions.** (a) If the articles of incorporation or bylaws of the associations so provide, a volunteer firefighter with credit for service as an active firefighter in more than one volunteer firefighters relief association is entitled, when the applicable requirements of paragraph (b) are met and when otherwise qualified, to a prorated service credit from each relief association.

(b) A volunteer firefighter receiving a prorated service pension under this subdivision must have total service credit of ten years or more, if every affected relief association does not require only a five-year service vesting requirement, or five years or more, if every affected relief association requires only a five-year service vesting requirement, as a member of two or more relief associations otherwise qualified. The member must have one year or more of service credit in each relief association. The prorated service pension must be based on the service pension amount in effect for the relief association on the date on which active volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and must give notice of membership to the prior association within two years of the date of termination of active service with the prior association. The notice must be attested to by the second or subsequent association secretary.

**History:** 1979 c 201 s 12; 1980 c 607 art 15 s 11; 1981 c 224 s 208,209,274; 1982 c 421 s 3; 1982 c 460 s 8; 1982 c 465 s 7,8; 1983 c 219 s 6; 1983 c 286 s 21; 1983 c 289 s 114 subd 1; 1984 c 547 s 15; 1984 c 655 art 1 s 92; 1985 c 261 s 8-10; 1Sp1985 c 7 s 35; 1987 c 372 art 1 s 22; 1988 c 668 s 9; 1988 c 709 art 7 s 2,3; 1989 c 319 art 10 s 3-6; 1990 c 570 art 14 s 1; 1993 c 244 art 1 s 1-3; art 3 s 1; 1996 c 438 art 8 s 4; 1997 c 203 art 6 s 92; 1997 c 241 art 6 s 1; art 10 s 5; 2000 c 461 art 15 s 5-9; 2002 c 392 art 13 s 1; 1Sp2003 c 12 art 12 s 1; 2004 c 267 art 14 s 1,2; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 1Sp2005 c 8 art 9 s 10-12; 2006 c 271 art 13 s 3

**NOTE:** The deferred service pension interest crediting procedure of subdivision 7, paragraph (c), clause (3), expires on December 31, 2008. Laws 2004, chapter 267, article 14, section 5, paragraph (d).

#### 424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

**Subdivision 1. Authorization.** Subject to restrictions stated in this section, a volunteer firefighter who is absent from firefighting service due to service in the uniformed services, as defined in United States Code, title 38, section 4303(13), may obtain service credit if the relief association is a defined benefit plan or an allocation of any fire state aid, any municipal contributions, and any investment return received by the relief association if the relief association is a defined contribution plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under United States Code, title 38, section 4312.

**Subd. 2. Limitations.** (a) To be eligible for service credit or an investment return allocation under this section, the volunteer firefighter must return to firefighting service with coverage by the same relief association or by the successor to that relief association upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e).

(b) Service credit or an investment return allocation is not authorized if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(c) Service credit or an investment return allocation is not authorized if the firefighter fails to provide notice to the fire department that the individual is leaving to provide service

## Ancillary Benefit Reductions

**Issue:** Under current law, ancillary benefits can't be reduced by the vesting percentage maximums found in statute. Some relief associations are reducing the benefits by the statutory percentages, or by other percentages from their bylaws.

**Options:**

1. Make no changes and address through education.
2. Change the language so benefits can't be reduced at all (i.e. benefits must be paid at 100%).
3. Allow benefits to be reduced, pursuant to a relief association's bylaws.

### Examples:

Scenario	Result	In Compliance?
A. Ancillary benefits reduced by statutory vesting percentages	Disabled member or survivor receives lesser amount. Non-vested members and their survivors receive nothing	No, can't reduce by vesting percentages in subdivision 2
B. Ancillary benefits reduced by other percentages	Same	Yes, if the vesting percentages don't exceed the statutory maximums
C. Ancillary benefits aren't reduced	Benefit paid at years of service times benefit level	Yes

## Funeral Benefits

**Issue:** If paid in conjunction with a survivor benefit, a funeral benefit usually exceeds the member's total earned service pension.

- Options:**
1. Make no changes and address through education.
  2. Restrict funeral benefits so they can only be paid from the General Fund.
  3. Eliminate the authority to pay funeral benefits.

**Examples:**

<b>Scenario</b>	<b>Funeral Benefit</b>	<b>Total Earned Service Pension</b>
A. Survivor benefit paid at 100% of member's pension amount	Paid from General Fund	Ok, does not exceed total
B. Survivor benefit paid at 100% of member's pension amount	Paid a lump sum benefit of \$5,000 from Special Fund	Exceeds total, not in compliance
C. Survivor benefit paid at 75% of member's pension amount	Paid at 25% of member's pension from Special Fund	Ok, does not exceed total

## Surviving Spouse Definition

**Issue:** Relief associations aren't always paying survivor benefits consistently with the statutory definition of a "surviving spouse," and the language is confusing.

**Options:**

1. Make no changes and address through education.
2. Rework the definition of a survivor to match PERA.
3. Rework the definition of a survivor to be something in between the current definition and PERA's definition.

### Examples:

Scenario	Current VFRA Law	Current PERA Law
A. Married, but not living together	No	Yes
B. Married less than one year at time of member's separation from service	No	Yes
C. Married after the member separated from service	No	Yes
D. Not married, but living together	No*	No*
E. Married at least one year at time of member's separation and still married to same person at time of member's death	Yes	Yes
* Can still assign this person as the designated beneficiary if no spouse or children		