

Minnesota Volunteer Fire Relief Association

Working Group Meeting

Office of the State Auditor

Tuesday, October 20, 2009

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 October 6, 2009 Meeting Minutes.

III. Survivor Benefit/Designated Beneficiary Discussion

Exhibit B.

IV. “Technical” Changes

Exhibits C through J.

- Clarification of Plans Covered by Chapter 424A (C)
- Exemption for Minors Correction (D)
- Minimum Liquidity Requirements Correction (E)
- Municipal Approval Language (F)
- DC Plan Ancillary Benefit Correction (G)
- Allowing Corrections for Deposit Mistakes (H)
- DC Plan Investment Allocations (I)
- Return to Service Clarification (J)

V. Return to Service Changes

Exhibits K through M.

- Clarification of Vesting Requirements (K)
- Authorized Leaves of Absence (L)
- Continuation of Monthly Pension Payments (M)

VI. Other Business

VII. Next Meeting

Tuesday, November 10, 2009

11 a.m. to 1 p.m.

Office of the State Auditor

VIII. Adjournment

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by October 19, 2009.

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Tuesday, October 6, 2009

11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
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
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)
Tim Simon, Elk River City Finance Director
Steven Wallner, Watertown City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Others Present

Jim Adams, West Metro Fire Relief Association Secretary
Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Paul Enga, Dayton Fire Relief Association Secretary
George Esbensen, Eden Prairie Fire Chief
Anne Finn, League of Minnesota Cities Representative
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst
Michael Johnson, Pension Analyst
Karsten Nelson, West Metro Fire Relief Association President
Rhonda Pownell, Northfield City Council Member

The following motions were duly made, seconded and approved:

- RESOLVED to approve the September 22, 2009, Working Group Meeting Minutes.
- RESOLVED to recommend no statutory change regarding the suggestion that relief association secretary and treasurer positions be combined.
- RESOLVED to table the discussion on suggested changes to municipal contribution calculations and payments until additional information is obtained on affected municipalities.
- RESOLVED to adopt the draft language requiring members who retire, are paid a service pension and subsequently resume active service and membership, to meet the minimum vesting requirements in the relief association bylaws to be eligible for a second service pension.

RESOLVED to exempt members with a leave of absence not to exceed one year from the minimum period of resumption service requirements, and to exempt other members with a break in service from the requirements if they haven't received a retirement benefit, subject to authorization by the relief association board of trustees.

RESOLVED to table the discussion on the continuation of monthly pension payments upon a return to service.

RESOLVED to review the authorized order of payment for survivor benefits.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the September 22, 2009, meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Wallner seconded the motion, which was adopted unanimously.

III. Board of Trustees - Combining of Officer Positions

Auditor Otto explained that this topic suggestion selected by the Group to consider is to allow the relief association secretary and treasurer positions to be combined if the relief association is audited. An additional general trustee would be elected from among the relief association membership so that the board of trustees would still consist of nine trustees. Members of the Group explained how duties are segregated in their relief associations and how the job duties of the secretary and treasurer are defined. The Group agreed that it is important to keep duties segregated and to maintain proper internal controls. Job duties for the secretary and treasurer positions can be defined by the relief association in its bylaws to meet the unique needs of the organization. Simon made a motion to recommend no statutory change. Anderson seconded the motion, which was adopted unanimously.

IV. Contribution Calculations/Payment Requirements

At the last meeting the Working Group members reviewed the memos provided by Martin and discussed suggestions for changing how municipal contributions are calculated and paid. The Group did not reach consensus at the last meeting and decided to table the topic to solicit additional input from Martin and affected entities. Martin explained to the Group that there is a practical problem of trying to help municipalities in the given timeframe. Municipal contribution amounts for 2010 were already required to be certified, and municipalities will be levying for the amounts this fall. Any legislative change that would reduce the required contribution amount would come too late to affect the levies and contribution amounts for next year. Esbensen discussed the situation in his community. Relief associations and municipalities are facing a "perfect storm" right now, with reductions in fire state aid and investment losses resulting in increased contribution requirements, at a time when municipalities are faced with shrinking budgets. The Group was concerned about making a substantial policy change in response

to a unique situation. Ganfield made a motion to table the topic until additional information on the number of affected municipalities is provided by the League of Minnesota Cities. Wallner seconded the motion. All members voted aye except for Zikmund who dissented.

V. Return to Service Changes

- **Clarification of Vesting Requirements**

At the last meeting Auditor Otto explained that it wasn't clear in the return to service legislation that the Group worked on last year whether members who retired, received a service pension, and returned to active service and membership needed to re-vest to be eligible for a second service pension. The Working Group agreed that members should be required to meet the minimum vesting requirements in the relief association's bylaws to be eligible for a second service pension, but the members shouldn't be subject to a separate minimum period of resumption service requirement. Draft language was provided to the Group for review. Zikmund made a motion to adopt the draft language, with the understanding that minor changes may be needed before the Working Group bill is finalized. Ganfield seconded the motion, which was adopted unanimously.

- **Authorized Leaves of Absence**

At the last meeting the Group discussed how different groups of members are affected by the new return to service law. Any member who has a break in service of at least 60 days is subject to the return to service law if the member resumes active service and membership. All breaks in service are treated the same. At the last meeting the Working Group voted to draft language that would exempt members with an approved leave of absence not to exceed one year from the minimum period of resumption service requirement. There also was discussion about whether members with a break in service that wasn't an approved leave should also be exempt. The Group reviewed language that was drafted based on the discussion from the last meeting. Ganfield made a motion to exempt members with a leave of absence not to exceed one year from the minimum period of resumption service requirements, and to exempt other members with a break in service from the requirements if they haven't received a retirement benefit, subject to authorization by the relief association board of trustees. Auditor Otto said that the language would be revised and presented to the Group again for review. The concept of Ganfield's motion was adopted unanimously.

- **Continuation of Monthly Pension Payments**

Auditor Otto explained that information is still being obtained on this topic so it isn't ready for discussion. Jaeger made a motion to table the topic until a future meeting. Duncan seconded the motion that was adopted unanimously.

VI. Other Business

- **Surviving Spouse Definition Review**

One of the Working Group's initiatives during the 2008 Legislative Session was to simplify the definition of a "surviving spouse." The Working Group based the new

definition on the one used by the Public Employees Retirement Association. Auditor Otto explained that relief associations are updating their bylaws to comply with the law change, which became effective at the beginning of the year, and a variety of questions have arisen as the new definition is being implemented. Auditor Otto explained that some relief associations, particularly those that pay monthly benefits, would like to see the surviving spouse defined as the spouse at the time of the member's separation from service. Other relief associations have expressed a desire to allow survivor benefits to be paid directly to a designated beneficiary to accommodate family needs. In addition, the Working Group's change last session that allowed a trust to be designated as a beneficiary is inoperable under current law. One way to address all of these concerns is by making a change to the order in which survivor benefits must be paid. Auditor Otto asked the Group whether it would like to add this topic to the list for discussion this year. Duncan made a motion to discuss the topic at the next Working Group meeting. Wallner seconded the motion, which was adopted unanimously.

VII. Next Meeting

Tuesday, October 20, 2009

11 a.m. to 1 p.m.

Office of the State Auditor

VIII. Adjournment

The meeting was adjourned at 1:00.

Exhibit B

Issue:

Relief association trustees and members have expressed a desire to change the payment order for survivor benefits for a variety of reasons (payout to a trust, at time of death vs. at time of separation issues, relief associations having to find any possible surviving children of the former member, and others).

Current Law:

Currently, survivor benefits must be paid to the surviving spouse and surviving children. If there is no surviving spouse and there are no surviving children, the benefit is paid to the designated beneficiary. If there are no survivors and there is no designated beneficiary, the benefit is paid to the estate of the deceased active or deferred firefighter.

Option:

1. One way to address the multiple issues that have been presented to Office of the State Auditor staff is to change statute so that it would require survivor benefits be paid to a designated beneficiary. If there is no beneficiary designated, the benefit would be paid to the estate of the deceased active or deferred firefighter.
2. The Optional Changes provided below would clean-up the survivor benefit language in the authorized disbursements section and move the payment order to the ancillary benefit sections. The authorized disbursements section authorizes benefit disbursements, while the service pension and ancillary benefit sections define the eligibility requirements and calculation methods for the benefits. It's more appropriate to define the order of eligibility for survivor benefit payments in the ancillary benefit section.

Considerations:

Firefighter designates someone other than their spouse as beneficiary. The Working Group could consider adding a requirement that spouse signs a waiver in this situation.

Optional Changes:

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

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Subd. 3. Authorized disbursements from the special fund.

(a) Disbursements from the special fund may not 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 under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association ~~to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid under law and specified in amount in the bylaws governing the relief association;~~

(4) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

(6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump sum volunteer fire relief association, or for a combination lump sum and monthly benefit volunteer fire relief association where a lump sum service pension has been elected by or a lump sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.~~

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

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Subd. 9. Limitation on ancillary benefits.

A defined benefit 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 defined benefit 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 defined benefit 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 by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by 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 without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit 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.

(3) If a survivor benefit is payable, the benefit must be paid to the designated beneficiary, or if no designation has been made, to the estate of the deceased active or deferred firefighter.

(4) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.

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

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Subd. 7. Limitation on ancillary benefits.

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

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

(c) If a survivor benefit is payable, the benefit must be paid to the designated beneficiary, or if no designation has been made, to the estate of the deceased active or deferred firefighter.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a designated beneficiary may be a trust created under chapter 501B.

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1.1 **CLARIFICATION OF THE APPLICABILITY OF**
1.2 **MINNESOTA STATUTES, CHAPTER 424A**

1.3 moves to amend S.F. No. ; H.F. No., as follows:

1.4 Page .., after line .., insert:

1.5 "Sec. Minnesota Statutes 2009 Supplement, section 424A.001, is amended by
1.6 adding a subdivision to read:

1.7 Subd. 11. **Volunteer firefighter relief association.** (a) "Volunteer firefighter relief
1.8 association" means a nonprofit corporation that provides service pensions to volunteer
1.9 firefighters and that is governed by sections 69.771 to 69.775.

1.10 (b) "Volunteer firefighter relief association" does not mean the Bloomington Fire
1.11 Department Relief Association governed by section 69.77; Minnesota Statutes 2000,
1.12 chapter 424; and Laws 1965, chapter 446, as amended, the Minneapolis Firefighters Relief
1.13 Association governed by section 69.77 and chapter 423C, the Virginia Fire Department
1.14 Relief Association governed by section 69.77, and Laws 1953, chapter 399, as amended,
1.15 or the voluntary statewide lump-sum volunteer firefighter retirement plan governed by
1.16 Minnesota Statutes, chapter 353G."

1.17 Renumber the sections in sequence and correct the internal references

1.18 Amend the title accordingly

Exhibit D

Technical Change: Exemption for Minors Correction

One of the Working Group's changes last session was to add an exemption to the prohibition on minors participating with the fire department, for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision. There was a mistake when the bill was drafted and the exemption was added to the wrong section. The language provided below would correct the drafting mistake.

420.20 PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. **Minors.**

~~(a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a firefighter, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.~~

~~(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.~~

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Exhibit E

Technical Change: Minimum Liquidity Requirements Correction

There are minimum liquidity requirements for relief associations to ensure that they have enough money invested in short-term obligations that can be immediately liquidated without substantial penalty to pay benefits as they come due. The statutory reference in the minimum liquidity requirements provision is incorrect. The provision currently covers relief associations investing under the “short list” of authorized investment securities, while it should cover relief associations investing under the “long list.” The language provided below would correct the statutory reference.

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

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Subd. 8. Minimum liquidity requirements.

A covered pension plan described by subdivision 6 or 7, ~~paragraph (a)~~, in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

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Exhibit F

Technical Change: Municipal Approval Language

State statute defines when relief associations are required to obtain municipal or independent nonprofit firefighting corporation ratification for benefit changes, and when a relief association may increase its benefit level without ratification. There are provisions in Chapter 424A and in Chapter 69 that define these requirements. The language in Chapter 424A isn't exactly the same as in Chapter 69, which has caused confusion. The language provided below would have Chapter 424A to refer to the requirements in Chapter 69.

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

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Subd. 10. Local approval of bylaw amendments; filing requirements.

(a) Each defined benefit relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding under section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized under section 69.80 payable from the special fund of the relief association is effective until it has been ratified as required under section 69.772, subdivision 6, or 69.773, subdivision 6 by the governing body or bodies of the appropriate municipalities. If the special fund of the relief association has a surplus over full funding under section 69.772, subdivision 3, or 69.773, subdivision 4, and if the municipality is not required to provide financial support to the special fund under this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund if authorized under section 69.772, subdivision 6 or 69.773, subdivision 6 so long as the changes do not cause the

~~amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the subsequent calendar year's fire state aid to be received by the relief association.~~

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification, and any service pensions or ancillary benefits payable after that date must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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69.772 RELIEF ASSOCIATIONS PAYING LUMP SUM SERVICE PENSIONS.

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Subd. 6. Municipal ratification for plan amendments.

If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and ~~or~~ if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 3,

clause (2), subclause (e), and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

69.773 RELIEF ASSOCIATIONS PAYING MONTHLY SERVICE PENSIONS.

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Subd. 6. Municipal ratification for plan amendments.

If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 4, ~~and~~ ~~or~~ if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage

provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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Exhibit G

Technical Change: DC Plan Ancillary Benefit Correction

One of the Working Group's major accomplishments last year was to create separate sections in Chapter 424A for defined contribution plans and for defined benefit plans. When the defined contribution plan language was reorganized the ancillary benefit language wasn't drafted as intended. The language states that ancillary benefits for active members must equal the vested *or* nonvested amount of the member's account, while it should be equal to the vested *and* nonvested amounts. The language provided below would correct the drafting error.

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

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Subd. 7. **Limitation on ancillary benefits.**

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

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

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Exhibit H

424A.05 Relief association special fund.

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Subd. 5 **Authorized disbursements from the special fund.** Upon notification of funds deposited in error in the special fund and after presentation of evidence that the error occurred in good faith, the state auditor may require the provision of a written legal opinion concluding the transfer of funds from the special fund is consistent with federal and state law. Taking into consideration the evidence of good faith and the legal opinion, if any, the state auditor may order the transfer from the special fund to the appropriate fund or account an amount equal to the funds deposited in error.

Exhibit I

Technical Change: DC Plan Investment Allocations

There is clear authority for active and deferred members of defined contribution plans to receive investment allocations, but not for inactive members. The language provided below would provide authority for defined contribution plans to credit inactive members with investment returns as defined by the relief association bylaws.

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

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Subd. 4. **Individual accounts.**

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

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

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

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

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

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

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

(c) The relief association, if the bylaws so permit, may credit any investment return on the assets of the special fund to the accounts of inactive members as defined by the bylaws.

(d-e) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation

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

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

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

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Exhibit J

Technical Change: Return to Service Clarification

While reviewing suggested changes to the return to service provision Pension Commission staff and Office of the State Auditor staff discussed adding language to make it clear that members with a federally protected leave are not subject to the return to service requirements. Draft language is provided below that would make this clarification.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

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Subd. 6. **Return to active firefighting after break in service.**

(a) The provisions of this section apply to all breaks in service, except breaks in service protected by federal or state law.

~~(b-a)~~ If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the firefighter person may again become an active member of the relief association.

~~(c-b)~~ A firefighter described in paragraph (a) who returns to active relief association membership under paragraph ~~(b-a)~~ may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets a minimum period of resumption service specified in the relief association bylaws.

~~(d-e)~~ A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph ~~(c-b)~~ must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(e-d)~~ A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph ~~(b-a)~~, who does not qualify for a service pension under paragraph ~~(c-b)~~, but who does meet the minimum service

requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(f-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (b-a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (c-b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(g-f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (b-a), who does not qualify for a service pension under paragraph (c-b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

Exhibit K

Topic:

The return-to-service legislation that was passed last session requires that members return to active service for at least a minimum period of time in order to accrue service credit with the relief association for the service performed after their return. Members must meet the vesting requirements to be paid a service pension, and it appears that the intent of the Working Group last year was to have members who resume active service and membership after retirement and receipt of a service pension “start over.” It is unclear in the legislation that was passed whether members who resume active service and membership after retirement and receipt of a service pension must meet both the minimum period of resumption of service and the vesting requirements in order to be eligible for a second service pension, or just the minimum period of resumption of service. The Optional Change provided below is based on the Working Group’s September 22 and October 6 meeting discussions.

Current Law:

The current law requires members that return to active service and membership after retirement to meet the minimum period of resumption service before a second cessation of duties in order to be eligible for a second service pension. It is not clear that the member must meet the relief association’s vesting requirements to be eligible for the second service pension.

Option:

The Optional Change provided below requires that retirees meet the relief association’s minimum vesting requirements to be eligible for a second service pension, and are not subject to a separate minimum period of resumption of service.

	Vesting Requirement	Resumption Period Requirement
Current Law	Unclear	Yes
Optional Change	Yes	No

Optional Change:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS’ RELIEF ASSOCIATION.

Subd. 6. Return to active firefighting after break in service.

(a) If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief association.

(b) ~~If a former firefighter who has received a service pension or disability benefit A firefighter who~~ returns to active relief association membership under paragraph (a), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets ~~a the~~ minimum ~~period of resumption service specified in the relief association bylaws~~ service requirements of section 424A.02, subdivision 2 or section 424A.016, subdivision 3.

(c) ~~If a former firefighter who has not received a service pension or disability benefit A firefighter who~~ returns to active relief association membership under paragraph (a), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets ~~a the~~ minimum period of resumption service specified in the relief association bylaws and the service requirements of section 424A.02, subdivision 2 or section 424A.016, subdivision 3.

~~(d-e)~~ A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph (b) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(e-d)~~ A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(~~f~~-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(~~g~~-f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

Exhibit L

Topic:

Any member who has a break in service of at least 60 days is subject to the new return-to-service law if the member resumes active service and membership. The legislation treats all breaks in service the same. The only exceptions are for federally protected leaves, such as military or FMLA. Bylaws for many relief associations allow the association or the fire department to grant members an approved leave of absence. A leave of absence, even if approved, would be considered a break in service and members would be subject to the return-to-service requirements if the leave of absence extends at least 60 days.

Current Law:

The current law specifies that anyone who has “ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days” is subject to a minimum period of resumption service if the firefighter returns to active fire department service and active relief association membership. This covers all situations (i.e., approved leaves of absence, deferred members that return, retirees that return, and any other type of break in service).

Option:

The Optional Change provided below would exempt members with an approved leave of absence not to exceed one year and members with a break in service of not more than one year from the resumption period of service requirement. The exemption for members with a break in service is subject to authorization by the relief association board of trustees. Pensions for these members must still be calculated in a manner consistent with the return-to-service requirements that, for example, specify which benefit level is used when determining the pension amount.

Optional Change:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS’ RELIEF ASSOCIATION.

Subd. 6. Return to active firefighting after break in service.

(a) If a former **active** firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief association. Former firefighters who return to active service and membership are subject to the service pension calculation requirements under this section.

(i) Former firefighters who have been granted an approved leave of absence by the fire department or by the relief association that did not exceed one year are

exempt from the minimum period of resumption service requirement of this section.

(ii) The relief association board of trustees may exempt from the minimum period of resumption service requirement of this section former firefighters who have a break in service that did not exceed one year and who have not received a service pension or disability benefit.

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Exhibit M

Topic:

If a member is receiving a monthly service pension and resumes active service and membership under the new return-to-service law, the member's monthly pension payments must cease during the member's period of resumption service. The member's monthly pension payments resume upon the member's subsequent cessation of firefighting duties, and the member would be eligible for an additional monthly pension if the member met the minimum period of resumption service (or minimum vesting requirement). The monthly payments that ceased while the member was active during the resumption period are "lost." The Optional Change provided below is based on the Working Group's September 22 meeting discussion.

Options and Considerations:

1. The Optional Change provided below would allow monthly retirees to continue receiving monthly service pension payments during their resumption period of active service if they return to active relief association membership. Members would be eligible for a second service pension if they meet the applicable requirements.
2. The Optional Change provided below only applies to monthly retirees who return to active fire department service and active relief association membership. If a monthly retiree returns to active service with the fire department but doesn't resume active membership in the relief association, Section 424A.02, subd. 1 would require that the relief association stop paying the monthly benefit during the member's resumption period of service.

Optional Change:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subd. 6. **Return to active firefighting after break in service.**

...

(e) If the bylaws so provide, a firefighter who returns to active relief association membership under paragraph (a) may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under Chapter 424A.

~~(f-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent~~

cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. ~~The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service.~~ If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(~~g~~f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.