# Minnesota Volunteer Fire Relief Association
# Working Group Meeting

State Auditor's Office
Monday, December 6, 2004
11 a.m. to 1 p.m.

**I. Call to Order**
*Rotating Chair Jim Hansen.*

**II. Welcome and Introductions**

**III. Review and Approval of November 22, 2004 Draft Minutes**
Exhibit A.

**IV. Continuing Education/Training for Fire Relief Association Trustees**
Larry Martin to provide background on Minn. Stat. § 356A.13.

**V. Review of Working Group Consensus Items**
Exhibits B through H.

- Adding MFIRS Reporting for State Fire Aid Eligibility
- Trigger Date for Financial Reports
- Revising Financial Requirements for Monthly Plans
- Disability Benefits to Age 50 for Monthly Plans
- Deferred Interest for Lump Sum Plans
- Deferred Interest for Defined Contribution Plans
- Board Composition

**VI. Fire Relief Association Membership Issues**
Larry Martin to outline Minn. Stat. § 424A.01.

**VII. Next Meeting**
Monday, December 13, 2004
11 a.m. to 1 p.m.
State Auditor's Office

# Volunteer Fire Relief Association Working Group

State Auditor's Office
Monday, November 22, 2004
11 a.m. to 1 p.m.

**Members Present**
Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnomen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, Minnesota State Fire Chief Association Representative Nyle Zikmund (defined benefit monthly plans), Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), State Auditor Patricia Anderson and White Bear Lake Finance Manager Don Rambow.

**Members Excused**
Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans).

**Others Present**
Investment Advisor Brant Kairies, Deputy State Auditor/General Counsel Carla Heyl, Assistant General Counsel Dave Kenney, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen, Eric Bulygo, Jami Crummy, Brian Martenson and Paul Rosen.

**Introductions**
Rotating Chair Nyle Zikmund introduced Brant Kairies of Access Financial Investment Advisors who works with the Spring Lake Park, Blaine & Mounds View Fire Relief Association to the Working Group members. Zikmund said that he had invited Kairies and Jeff Nordeen of the Victoria Fire Relief Association who also is an investment advisor to participate in the discussion. Nordeen was unable to attend the meeting.

**November 8, 2004 Minutes**
Zikmund asked if the members needed additional time to read and review the draft minutes in Exhibit A. Hansen moved to approve the minutes and the motion passed unanimously.

**Investment Requirements**
Larry Martin referred the members to Exhibit B that outlines the investment requirements for volunteer fire relief associations under state law. Martin said the Public Pension Fiduciary Responsibility law (Chapter 356A) details the prudent person investment standard that prudent persons would use in managing their own investments.

State law details other requirements including diversification, liquidity, collateralization, investment authority, prohibited transactions, economic interest statements and investment business recipient disclosure forms. The list of authorized investments for smaller fire volunteer plans has a narrower range of investment securities under Minn. Stat. § 356A.06, subd. 6, than the expanded list for larger volunteer fire plans under Minn. Stat. § 356A.06, subd. 7.

The expanded list originally was linked to the investment authority of the State Board of Investment (SBI) under Chapter 11A when Chapter 356A was enacted in 1989, said Martin. When investment in junk bonds became of interest there was considerable legislative discussion resulting in separate investment lists for the volunteer fire plans and the SBI.

Zikmund asked Kairies to discuss issues he has experienced as an investment adviser to the SBM relief association. Kairies said he would like to get a better understanding of the types of allowable investments and clarification of the way to classify investments. He further inquired whether mutual funds must be invested only in investments authorized on the long list and if foreign bonds and Exchange Traded Funds (ETFs) are appropriate. His view is that the list seems limited to some degree.

Dave Kenny explained the State Auditor's Office has taken the position in the past that authority on expanded list is for any type of mutual fund as long as it is subject to the 35 percent other investments cap under subd. 7(g). Dave Ganfield said Minn. Stat. § 69.775 allows up to 75 percent of a portfolio in mutual funds provided they are invested only in securities authorized by the expanded list.

Martin said a look at legislative history shows the intent to prohibit investment in junk bonds by volunteer fire plans. He takes the position that this is pre-SBI junk bond authorization. He said the SBI has special authority allowing junk bonds whereas the volunteer fire plans do not have the specific authority. Martin asked why relief associations should be able to invest in junk bonds. Zikmund responded that relief associations are not specifically interested in investing in junk bonds but would like clarification on other investment issues.

Kairies said the other investments catch-all clause on the expanded list seems to allow investment in attractive asset classes through mutual funds. Martin said the SBI catch-all clause that allows for venture capital and other investments was carried over to the expanded list for volunteer fire plans. At present, the SBI catch-all clause gives the SBI greater latitude with other investments than the volunteer fire plans, said Martin. The SBI authority came slowly too, he added, because the SBI was not permitted to invest in stocks until 1959 when a permanent investment staff was established. It then took nearly a decade for stocks to become a sizeable portion of the SBI portfolio.

In 1989, the legislature had to choose the level of investment authority to grant to volunteer fire plans. He said restrictive investment authority was selected for the smaller volunteer fire plans that lack professional management and SBI-like authority at first for the larger volunteer fire plans.

Ganfield asked when was the 75 percent language was added. Martin said the legislation came in 1971. Martin said that the statutory threshold has always been 75 percent to his recollection and that it was relatively high to encourage volunteer firefighters to get professional management in the form of mutual funds.

Ganfield said mutual funds were a new idea in 1971 and as time has gone on mutual funds have proven to be much safer than stock because the risk is spread over different investments. It was observed that about 50 relief associations went over the 75 percent cap during the 2003 reporting year. About a quarter of the state's 700-plus relief associations had some exposure to junk bonds during that time period.

Kerries inquired whether ETFs should be treated as mutual funds. Securities that are common now were not available when the law was created, he said.

Zikmund said 50 relief associations over the 75 percent cap is more than enough to justify looking at the issue. Rambow said it is more important to look at the aggressiveness of mutual funds rather than the percentage they play in a plan's portfolio.

Zikmund asked if ETFs are legal investments. Burek said they are permitted through the corporate stock investment category under subd. 7(b). Martin asked why ETFs would be a good choice for relief associations.

Kairies answered that ETFs are mostly indexed securities traded throughout the day on an exchange. He said they are attractive because they are available for various sectors of market and types of capitalization. In his opinion, they are a different way to look at the market because if stocks are static ETFs allow investment in an indexed weighting of stock through one security. They trade at parity with stock although they are made up of several stocks and look like an indexed mutual fund, he added.

Kenney said when the question first came up the State Auditor's Office informally discussed ETFs with the Attorney General's Office that believed that authority exists for them under the corporate stock category on the expanded list so there shouldn't be an issue, he said.

Zikmund said state law authorizes only stocks traded on the New York Stock Exchange and the American Stock Exchange. He said relief associations have stock holdings that are not traded on either exchange.

Rambow said relief associations should not try to make questionable investments fit under state law. Relief association boards that interpret the law to make purchases under gray authority put themselves at risk for criticism from the public.

Zikmund said the discussion is an opportunity to investment issues up and that relief associations do not wish to violate the law. Instead, he said, changes have occurred in the market that they would like to capture because state law has not been updated in a long time.

Martin said relief associations must meet accounting requirements as well as the expectations of members and the city. He said investment advisors might try to make a profit by selling relief associations a Jaguar when the relief association only needs a pick-up truck.

Zikmund said that fiduciary duties are a challenge for those who put families first, have jobs, fight fires and then serve as trustees. He said when a professional money manager says this is the way to go we have two percent knowledge to know whether to get into certain investments like REITS (Real Estate Investment Trusts). Most trustees have no idea what certain investments are and do not have time to get expertise about them.

Martin said trustee responsibility is the price paid to run highly decentralized public pension plans. Some relief associations do much better than others and some are better able to avoid fraud than others. Inappropriate investments have been made including relief association loans to cities to buy fire trucks, raw land purchases to buy houses on speculation and purchase certificate of deposit from local banks that are prominent players in the community.

Martin said errors by the Winona Police Relief Association led to many of the present financial and investment reporting requirements. Volunteer fire plans should look at their rates of return and investment performance but first make sure their investments are prudent and on the legal lists.

Zikmund asked whether relief associations are allowed to invest in mutual funds only if they invest in authorized securities. Martin said § 69.775, which provides the 75 percent cap, requires relief associations to comply with the cap and the authorized investment lists under § 356A.06.

Kairies said it is not possible to be assured that mutual funds are invested in authorized investments. Most managers do not want to box themselves in so to categorize them as in the investment bond fund to leave themselves room, he added. Without access to individual portfolios, it is difficult to judge.

Kairies also asked whether 20 percent of a portfolio could be invested in international securities. Martin said it could be as long as the total of the international securities and other investments do not exceed the 35 percent cap under subd. 7(g).

Burek said the SBI amended its investment law in the mid-1990s to invest in any publicly traded security not just those on the New York Stock Exchange or the American Stock Exchange. He suggested that the Working Group members might wish to consider a similar amendment. If there were more room to fall under the corporate stock legal list authority, there would be less reliance on the 35 percent cap under subd. 7(g), he said. Burek said technically the Wilshire 5000 doesn't comply with present law because it is not on one of the two authorized stock exchanges by state law.

Zikmund said he likes Burek's idea. The consensus of the Working Group was to ask Martin to draft language that permits volunteer fire plans to invest in any publicly traded security and to specifically authorize ETFs in state law.

Zikmund asked what level of scrutiny is applied to mutual funds to ensure compliance with law. While the internet now offers the opportunity to fully scrutinize mutual funds, the research takes significant time based on the volume of mutual funds, said Strobel.

Martin said volunteer fire plans should have the burden to substantiate that they have an investment policy and hold only authorized investments. He said the information should be provided at the request of the State Auditor's Office rather than require the collection of 700 more forms. Relief associations should be aware of any questionable investments before they report to the State Auditor's Office, he said.

Zikmund said smaller plans are not always aware that this is going on. Rambow said plans put their trust in their investment advisor because they do not have the capability and are not experts in the field. This is part of their fiduciary duty, he said. The problem is when investment advisors try to make more money and investments go beyond the law then the city is financially responsible for defined benefit plans.

Zikmund said if a defined contribution plan exists, the city still has a practical responsibility to the plan. He said he sees more investment advisers trying to make money by getting more heavily into trading that leads to more fees.

Ganfield said relief associations need more guidance on investments. State Auditor Anderson said it would be possible to put together some abbreviated information for distribution to investment advisors and relief association trustees.

Zikmund asked the group to return to Ganfield's recommendation to raise the 75 percent mutual fund threshold.

Ganfield said relief associations are supposed to have a certain amount of cash to pay benefits. He said his relief association maintains money market accounts for this purpose that puts the relief association over the 75 percent mutual fund limit. Jaeger said he agrees that money market accounts should be excluded from the cap.

Zikmund queried whether an investment of 100 percent in the SBI puts a relief association 100 percent in mutual funds over the 75 percent limit. Martin said the SBI is set up like a mutual fund but is not considered to be a mutual fund for purposes of the mutual fund investment maximum. Zikmund asked whether the Working Group members would prefer to declassify money market accounts from the 75 percent limit or raise the 75 percent limit.

Rambow said it would be better to declassify. In response to a question from Ganfield, the State Auditor's Office was open to change.

Martin said he would draft language to exclude money market accounts from the 75 percent limit under § 69.775.

**Insurance Coverage**

Zikmund brought forward a request from the Coon Rapids Fire Relief Association. He said the relief association is paying insurance to members with less than five years of service. At present, this benefit can be paid from a relief association's General Fund or Special Fund through the Volunteer Fire Benefit Association (VFBA).

Zikmund said VFBA covers short-term disability at a cost of six dollars per member per year. He said Coon Rapids is looking at insurance coverage as a length of service award rather than as a disability bridge.

Ganfield said this insurance coverage is not really a statewide issue and suggested that any law change should be sought individually. Jaeger said payment for the insurance coverage should be taken out of the relief association's General Fund. In his view, the state law governing Special Funds should not be opened for additional purposes. Zikmund said he would report back to Coon Rapids that the Working Group members did not reach consensus on this issue to carry a proposal forward.

Roberts asked whether city money must be deposited to the Special Fund even when it is being paid to reimburse the General Fund for purchases of caps and apparel for new firefighters.

Heyl said cities are able to reimburse individual firefighters for such expenditures but should not forward payment to a relief association's General Fund.

Zikmund recommended keeping the lines clean between the Special Fund and General Fund by retaining the prohibition against placing any city money in a relief association's General Fund. Ganfield concurred saying this is an accounting and training matter. Finn said that the League of Minnesota Cities would not support law changes in this area.

Rambow said if the purchases of caps and apparel are for firefighters the city should pay for them. He said it is the city's responsibility to support and promote the fire department. The relief association's responsibility is to pay pension benefits not promote the fire department.

**Marital Dissolutions**

Ganfield said that relief associations are particularly challenged by marital dissolutions. He said relief association boards are uncertain about their responsibilities regarding the division of a public pension plan in a marital dissolution. He said his relief association, a combination pension plan, was advised to treat a former spouse as a member and permit the former spouse as an alternate payee to elect either a lump sum or monthly benefit option. The relief association wants to require all alternate payees to accept lump sum payments to minimize costs to the plan.

Martin briefly reviewed Exhibit C saying that federal law is more expansive than state law in imposing liabilities for the division of a public pension in a marital dissolution. He said state law was amended in 1987 primarily to provide an exception to the no garnishment clauses that precluded payment to anyone but the member. The law change was to permit public pension plans to cut two checks for the parties but not to exceed the amount of the benefit payable to the member. A former spouse would not be a surviving spouse under most readings of state law and bylaws for relief associations, he said.

Ganfield said divorces are coming before trustees more often and assistance beyond that provided by state statute would be appreciated from the State Auditor's Office or Pension Commission. It was observed that the division of a public pension is usually based on the years of the marriage especially if shorter than the firefighter's years of service. Some firefighters may retain or relinquish more or less of their pension depending on the division of other marital assets.

State law requires relief association boards to provide the court or parties with information regarding a firefighter's pension benefits or rights. The trustees should also communicate with the attorneys to remind them that any private pension plan boilerplate language called a QDRO (Qualified Domestic Relations Order) must be modified to divide the benefit option, if any, elected by the member and pay the former spouse at the time of retirement not the time of the divorce.

**Reference Items**

Martin said the reference items are draft language and policy considerations for Working Group items that reached consensus during past meetings. He said the items were included in the agenda materials to give members time for review before additional discussion is scheduled at upcoming meetings.

The group then determined that the latter half of the December 6, 2004 meeting could be used for this purpose. It was also agreed to discuss relief association membership in the context of state law and bylaw options. The consensus items from this meeting will be included in the next agenda packet as reference items for consideration at the December 13, 2004 meeting.

**Next Meeting**

Zikmund adjourned the meeting at 12:57 p.m. The next meeting of the Working Group will be Monday, December 6, 2004 from 11 a.m. to 1 p.m. in the State Auditor's Conference Room. Member suggestions for the agenda must be forwarded to the Pension Division by Tuesday, November 30, 2004.

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-292; Adding MFIRS Reporting to Minimum Fire Department Requirements for Fire State Aid Qualification

DATE: November 16, 2004

Summary of Document LCPR04-292

Document LCPR04-292 amends Minnesota Statutes, Section 69.011, Subdivisions 4 and 5, the minimum fire department requirements for qualifying for fire state aid and the State Fire Marshal fire department inspection provisions, by adding regular reporting to the State Fire Marshal through the Minnesota Fire Incident Reporting System (MFIRS) as a minimum fire department requirement for fire state aid qualification and by updating the language usage and style of the State Fire Marshal's inspection provision.

Background Information on the Development of the Fire State Aid Program

The fire state aid program was initially established in 1885 (Laws 1885, Chapter 187) and was significantly modified in 1903, 1943, 1945, 1969, 1971, 1988, 1991, 1995, and 1996.

In 1903 (Laws 1903, Chapter 20), the fire insurance premium tax was raised to the two percent premium tax level and specified uses for the money modified, with the funds to be used to provide retirement and disability benefits to fire department members and their survivors, and to help maintain the fire department, including covering purchase and maintenance costs of fire equipment. In 1943 (Laws 1943, Chapter 323, Section 2), the authority to use the fire state aid to purchase fire equipment and to cover other costs of operating the fire service was deleted. In 1945 (Laws 1945, Chapter 225), the use of fire state aid for firefighting equipment purposes was permitted only if no firefighter relief association is associated with the fire department. In 1969 (Laws 1969, Chapter 399), the fire state aid allocation method was modified, shifting it from the location of insured property for each premium tax payment to a distribution half in proportion to the population according to the last federal census and half in proportion to property market values, excluding mineral values but including tax-exempt property. The 1969 law also established minimum fire department requirements for fire state aid qualification and required fire relief association financial reporting. In 1971 (Laws 1971, Chapter 695), minimum volunteer firefighter relief association funding and financing requirements were added and compliance with the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act was made a condition for fire state aid. In 1988 (Laws 1988, Chapter 719, Article 2, Sections 1 to 5), the fire and related insurance premium tax rates were reduced for certain mutual insurance companies. In 1991 (Laws 1991, Chapter 291, Article 13), the fire state aid program appropriation was reduced to the amount of fire insurance premium taxes raised. In 1995 (Laws 1995, Chapter 264, Article 9, Section 3), insurance premium tax rates were increased to two percent of all life insurance premiums, one percent of all other insurance premiums for all town and farmers' mutual insurance companies and for the smaller mutual property and casualty companies (assets of no more than $5 million) and 1.26 percent of all other insurance premiums for the larger mutual property and casualty companies (assets over $5 million and no greater than $1.6 billion) and increased the insurance premium tax revenue dedicated to the fire state aid program to the greater of either 107 percent of the fire, lightning, sprinkler leakage, and extended coverage insurance premium taxes collected or an amount equal to one percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by town and farmers' mutual insurance companies and by mutual property and casualty companies with assets not exceeding $5 million and to two percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by all other fire risk insurers. In 1996 (Laws 1996, Chapter 390, Sections 29 and 30), a minimum fire state aid floor amount for volunteer firefighter relief associations was implemented that would otherwise receive a disproportionately small amount of fire state aid on a per-active-member basis, funded from a portion of excess police state aid.

Background Information on the Minimum Fire Department Requirements for Fire State Aid

The minimum fire department requirements for qualifications for fire state aid set forth in Minnesota Statutes, Section 69.011, Subdivision 4, are:

1. Fire Department Establishment. The municipal fire department must be established for at least one year by the municipal governing body or the independent nonprofit firefighting corporation must be operated exclusively for firefighting purposes and must provide retirement benefits to volunteer firefighters directly or through a separate subsidiary incorporated firefighters relief association.

2. Minimum Number of Firefighters. The fire department must have ten paid or volunteer firefighters including a fire chief and assistant fire chief.

3. Minimum Meetings and Drills. The fire department must have regular scheduled meetings and frequent drills, including instructions in firefighting tactics and in the use, care, and operation of all fire apparatus and equipment.

4. Minimum Fire Department Equipment. The fire department must have a motorized fire truck equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps—tank extinguisher or equivalent, dry chemical extinguisher or equivalent, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, and boots.

5. Minimum Fire Station Requirements. The fire department must have a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm.

6. Minimum Fire Alarm System Requirements. The fire department must have a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm.

7. Minimum Second Response Requirements. If a response is to be provided outside the corporate limits of the municipality where in the fire department is located, the municipality must have another piece of motorized apparatus to make the response.

8. Other Requirements. The fire department must meet any other requirements the Commissioner of Revenue establishes by rule.

Under Minnesota Statutes, Section 69.011, Subdivision 5, the State Fire Marshal has the duty to inspect municipal fire departments and independent nonprofit firefighting corporations and may enter those facilities at any reasonable hour. If the inspection discloses that the fire department does not meet the minimum fire department requirements, the State Fire Marshal must report that fact and the Commissioner of Revenue is required to disqualify the municipality or independent nonprofit firefighting corporation from future fire state aid.

Background Information on the Minnesota Fire Incident Reporting System

The Minnesota Fire Incident Reporting System (MFIRS) is a tool operated by the Minnesota State Fire Marshal for fire departments to report and maintain records of fires and other fire department incidents in a uniform manner. The MFIRS process is part of a National Fire Incident Reporting System (NFIRS).

MFIRS is intended to assist the fire service, policymakers, and the public in order to justify budget requests and provide a basis for resource allocation; generate statistical reports; assess department activity on a national scale, including emergency medical services, department apparatus, wild land fires, and personnel activities; summarize annual activities; answer questions about the nature and causes of injuries, deaths, and property loss resulting from fires; predict fire-related problems within the State; and measure the success of fire prevention and safety programs.

The reporting consists of information on the timing of fire department incidents, the location of fire department incidents, the incident type, the extent of aid provided or received, the actions taken in response to the incident, the fire department resources committed to the incident, the estimated dollar loss involved in the incident, the casualties caused by the incident, the extent of fire detection in the incident, the extent of any hazardous material released, the use of the property involved in the incident, the details of the property involved, the cause and extent of ignition, the human factors and equipment involved in ignition, the structure type, status, height, and area of any building involved, the fire origin and extent of spread, and any insurance coverage involved.

Participation in the MFIRS has varied over the period 1990 to 2003, with a general increase over time, as follows:

| Year | Number of Fire Departments Participating in MFIRS Reporting | Year | Number of Fire Departments Participating in MFIRS Reporting |
|---|---|---|---|
| 1990 | 559 | 1997 | 695 |
| 1991 | 524 | 1998 | 672 |
| 1992 | 647 | 1999 | 674 |
| 1993 | 620 | 2000 | 700 |
| 1994 | 679 | 2001 | 705 |
| 1995 | 694 | 2002 | 728 |
| 1996 | 690 | 2003 | 715 |

The following are the Calendar Year 2003 non-reporting fire departments and the 2003 fire state aid amounts involved:

**Non-Reporting Fire Departments – 2003**

| | Fire Department | Fire State Aid |
|---|---|---|
| | Ada (Norman County) | $11,383 |
| ** | Altura (Winona County) | $6,704 |
| | Audubon (Becker County) | $11,719 |
| ** | Beaver Bay (Lake County) | $4,469 |
| ** | Bethel (Anoka County) | $3,511 |
| * | Bigelow (Nobles County) | $6,065 |
| ** | Bigfork (Itasca County) | $15,440 |
| | Blackduck (Beltrami County) | $12,606 |
| ** | Bluffton (Otter Tail County) | $5,107 |
| ** | Braham (Isanti County) | $20,509 |
| ** | Butterfield (Watonwan County) | $7,661 |
| * | Cambridge (Isanti County) | $58,433 |
| ** | Campbell (Wilkin County) | $8,300 |
| | Central Lakes Vol. (St. Louis County) | |
| ** | Chisago City (Chisago County) | $26,536 |
| ** | Crosslake (Crow Wing County) | $25,290 |
| | Delavan (Faribault County) | $6,065 |
| ** | Dexter Vol. (Mower County) | $5,107 |
| | Dodge Center (Dodge County) | $13,090 |
| ** | Eagle Bend (Todd County) | $7,980 |
| ** | East Hubbard Co. (Hubbard County) | $6,925 |
| | Elgin (Wabasha County) | $14,071 |
| ** | Ellendale (Steele County) | $8,723 |
| ** | Erskine (Polk County) | $6,065 |
| ** | Federal Dam (Cass County) | $2,890 |
| ** | Fifty Lakes (Crow Wing County) | $4,150 |
| | Finlayson (Pine County) | $9,576 |
| | Garvin (Lyon County) | $4,788 |
| ** | Geneva (Freeborn County) | $6,065 |
| ** | Grand Marais (Cook County) | $12,104 |
| ** | Grand Meadow (Mower County) | $13,213 |
| ** | Hangaard Twp. (Clearwater County) | |
| ** | Hanska (Brown County) | $7,980 |
| ** | Hayward (Freeborn County) | $7,023 |
| * | Herman Vol. (Grant County) | $7,980 |
| ** | Hidden Valley (Winona County) | |
| ** | Howard Lake (Wright County) | $16,226 |
| ** | Iona (Murray County) | $2,873 |
| | Itasca Twp. (Clearwater County) | |
| ** | Kent-Abercrombie (Wilkin County) | |
| ** | Kilkenny (LeSueur County) | $7,025 |
| ** | Lake George (Huber County) | $5,427 |
| ** | London (Freeborn County) | $4,469 |
| ** | Lonsdale (Rice County) | $27,665 |
| | Magnolia (Rock County) | $3,831 |
| ** | Middle River (Marshall County) | $6,065 |
| * | Minnesota Lake (Faribault County) | $7,980 |
| | Northland (St. Louis County) | $3,192 |
| ** | Northwest Angle (Lake of the Woods County) | |
| ** | Oklee (Red Lake County) | $5,746 |
| * | Onamia (Mille Lacs County) | $14,673 |
| ** | Ormsby (Watonwan County) | $4,788 |
| * | Osseo (Hennepin County) | $12,309 |
| * | Pequaywan Lake (St. Louis County) | $4,469 |
| * | Perley-Lee Twp. (Norman County) | $1,608 |
| ** | Plummer (Red Lake County) | $7,661 |
| ** | Red Lake Falls (Red Lake County) | $9,672 |
| | Revere (Redwood County) | $6,384 |
| ** | Rochester Rural (Olmsted County) | |
| ** | Round Lake (Nobles County) | $6,344 |
| | Scandia Valley (Morrison County) | $8,195 |
| * | Schroeder (Cook County) | $3,511 |
| | Sedan (Pope County) | $4,469 |
| ** | Stewartville (Olmsted County) | $36,499 |
| * | Twin Lakes (Freeborn County) | $6,065 |
| * | Tyler (Lincoln County) | $8,151 |
| | Villard Vol. (Pope County) | $7,661 |
| ** | Vining (Otter Tail County) | $4,788 |
| ** | Walker (Cass County) | $27,503 |
| * | White Earth Vol. (Becker County) | |
| | Woodstock (Pipestone County) | $4,788 |
| * | Wykoff (Fillmore County) | $6,384 |
| | Total | $643,949 |

* Non-reporting one prior year during the period 1999-2002

** Non-reporting two or more prior years during the period 1999-2002

Potential Policy Analysis and Discussion

Document LCPR04-292 adds an eighth requirement to the current seven requirements on a fire department for the applicable municipality or independent firefighting corporation to qualify for fire state aid, with that new requirement being complete reporting of fire department activity to the State Fire Marshal under the Minnesota Fire Incident Reporting System (MFIRS) procedure during the preceding calendar year.

The proposed change, if forwarded by the working group to the Legislature for consideration during the 2005 Legislative Session, will likely raise the following pension and related public policy issues for consideration by the Legislative Commission on Pensions and Retirement, as identified by the Commission staff:

1. Appropriateness of Conditioning Fire State on a Non-Pension Reporting Requirement. The policy issue is the appropriateness of conditioning fire state aid on the participation of the applicable fire department with the Minnesota Fire Incident Reporting System (MFIRS), which relates to the functioning of the fire department and the fire service statewide, but has no direct pension application. The minimum fire department requirements for qualifying for fire state aid were added in 1969, in order to use the fire state aid program to encourage a betterment in the provision of firefighting service throughout the state. If MFIRS actually would work to improve the provision of fire services in the state, then adding MFIRS participation would be an extension of the 1969 legislative policy of leveraging fire state aid to gain improved fire departments statewide. The MFIRS reporting, however, focuses on firefighting activities and, if applicable, emergency medical activities, but does not appear to focus on fire prevention activities. Testimony may be appropriate about the role of fire prevention compared to fire suppression and firefighting activities in measuring the value of the fire service locally and statewide.

2. Appropriateness of Requiring MFIRS Participation if Reporting is Difficult or Onerous. The policy issue is the appropriateness of adding MFIRS participation as an additional fire state aid qualifying requirement if that reporting responsibility is difficult or onerous for the non-participating fire departments. Of the 72 fire departments that do not participate in the MFIRS program, several are serving small population locales (18.06 percent are under 200 in population and 15.28 percent are without available population numbers), but a large number are larger population locales (37.49 percent are between 200 and 500 in population and 29.17 percent are in excess of 500 in population). MFIRS participation may be as much a question of motivation as of capability, at least as capability is measured by the firetown population, since several very small municipalities have good or perfect MFIRS participation records, as follows:

| Municipality | County | Population | MFIRS Participa-tion |
|---|---|---|---|
| Arco | Lincoln | 99 | 4/5 |
| Beltrami | Polk | 98 | 5/5 |
| Borup | Norman | 90 | 5/5 |
| Correll | Big Stone | 45 | 5/5 |
| Dovray | Murray | 67 | 5/5 |
| Goodridge | Pennington | 97 | 5/5 |
| Kenneth | Rock | 58 | 3/5 |
| Kerrick | Pine | 71 | 3/5 |
| LaSalle | Watonwan | 89 | 5/5 |
| Lake Henry | Stearns | 91 | 4/5 |

3. Precedent. The policy issue is the question of whether or not there is a past precedent for the additional fire state aid requirement and whether or not the proposed additional requirement would become a precedent for further fire state aid requirement additions. Within the fire state aid program, there is no direct precedent for a fire department reporting requirement, but pension fund reporting requirements (financial and investment) as a fire state aid qualification do exist. Within the fire service, there is a precedent in a number of grants to fire departments with the requirement that they report their incidents, including fire grants from the United States Fire Administration (USFA) and Department of Natural Resources (DNR) grants. With the exception of potentially adding the reporting of fire prevention activities, it is unclear what future additional fire department reporting requirements could be added based on this proposal.

4. Appropriateness of the Current Fire Department Minimum Fire State Aid Requirements. The policy issue is the appropriateness of the current fire state aid minimum fire department qualifications. The

current qualifications were set in 1969, when they were first added, but the qualifications have not been revised since. As such, the requirements may not reflect the current best practices with respect to minimum requirements for a fire department. Additional work by the State Fire Marshal or additional testimony from representatives of the state's fire services may be needed to gauge the adequacy of the minimum fire department qualifications set forth in Minnesota Statutes, Section 69.011, Subdivision 4.

5. <u>Appropriateness of the Current Process for Determining Whether or Not the Minimum Fire Department Requirements Are Met</u>. The policy issue is the appropriateness of the current manner in which the Department of Revenue and the State Fire Marshal determine whether or not the State's 700+ fire departments meet the minimum fire department requirements of Minnesota Statutes, Section 69.011, subdivision 4. The current process appears to involve an in-person inspection by the State Fire Marshal of new fire departments first applying for fire state aid and the checking of an attestation box on an annual Department of Revenue form indicating minimum requirement compliance by all other fire departments. The process potentially gives a pass to existing fire departments, which allows circumstances to continue to occur such as fire departments with less than ten active members to receive fire state aid.

A bill for an act

relating to retirement; volunteer firefighter relief associations; modifying the minimum fire department requirements to qualify for fire state aid; amending Minnesota Statutes 2004, section 69.011, subdivisions 4 and 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 69.011, subdivision 4, is amended to read:

Subd. 4. **QUALIFICATION FOR STATE AID.** ~~Any~~ A municipality in this state having for more than one year an organized fire department ~~and~~ that was officially established by the governing body of the municipality or an independent nonprofit fire fighting corporation created under the nonprofit corporation act of this state and operating for more than one year exclusively for fire fighting purposes and providing retirement and relief benefits to its members or having a separate subsidiary incorporated firefighter's relief and pension association providing retirement and relief benefits may qualify to receive fire state aid if it meets the following minimum requirements or their equivalent as determined by the State Fire Marshal ~~by July 1, 1972~~:

~~(a)~~ (1) has at least ten paid or volunteer firefighters, including a fire chief and an assistant fire chief~~, and~~;

~~(b)~~ (2) has regular scheduled meetings and frequent drills, including instructions in fire fighting tactics and in the use, care, and operation of all fire apparatus and equipment~~, and~~;

~~(c)~~ (3) has a motorized fire truck that is equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps--tank extinguisher or equivalent, a dry chemical extinguisher or equivalent, ladders, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, and boots~~, and~~;

~~(d)~~ (4) has its apparatus suitably housed in a building of good construction with facilities for care of hose and equipment~~, and~~;

~~(e)~~ (5) has a reliable and adequate method of sending and receiving fire alarms electronically, by telephone, or with electric siren and has suitable means of sounding an alarm~~, and~~;

~~(f)~~ (6) if response is to be provided outside the corporate limits of the municipality wherein the fire department is located, the ~~municipality~~ fire department has another piece of motorized apparatus to make the response~~, and~~;

(7) has filed a complete 12-month set of Minnesota fire incident reporting system reports with the State Fire Marshal Division of the Department of Public Safety for the preceding calendar year; and

~~(g)~~ (8) meets any other requirements that the commissioner establishes by rule.

Sec. 2. Minnesota Statutes 2004, section 69.011, subdivision 5, is amended to read:

Subd. 5. **FIRE DEPARTMENTS TO BE INSPECTED BY STATE FIRE MARSHAL.** ~~It shall be the duty of~~ The State Fire Marshal ~~or an appointed deputy or designated assistants to~~ shall inspect, or cause to be inspected, at the time other public buildings are inspected, the fire department of any municipality or nonprofit fire fighting corporations in this state~~; and,~~. For that purpose, the State Fire Marshal ~~or any of the fire marshal's deputies or designated assistants shall have~~ has the right to enter or have access ~~thereto~~ to fire department buildings at any reasonable hour. ~~When~~ If, upon inspection, it is found that the fire department inspected does not conform to the requirements of subdivision 4, the State Fire Marshal shall ~~make a~~ report ~~of~~ the fact to the commissioner and the commissioner shall disqualify the municipality or nonprofit firefighting corporation from ~~participation in~~ the future fire state aid apportionment ~~provided for in this chapter and chapter 424~~.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective on July 1, 2005.

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Potential Draft Proposed Legislation LCPR04-291; Trigger Date for the Required Filing of Financial Reports

DATE: November 16, 2004

Summary of LCPR04-291

Potential draft proposed legislation LCPR04-291 amends Minnesota Statutes, Section 69.051, Subdivisions 1 and 1a, the local police and firefighter relief association financial report and audit or financial statement requirements, by clarifying that the imposition of the more stringent requirement of a volunteer firefighter relief association financial report and audit, rather than a financial statement, would occur in the year after the relief association achieves $200,000 in either assets or liabilities, rather than during the same year, and the more stringent financial reporting requirement would continue thereafter, irrespective of the subsequent asset or accrued liability size of the volunteer firefighter relief association.

Background Information on Relief Association Financial Reporting

Since 1965 (Laws 1965, Chapter 359, Section 1), Minnesota public pension plans have been required to prepare annual financial reporting. The statutory requirement is codified as Minnesota Statutes, Section 356.20. For volunteer firefighter relief associations, a financial report under Minnesota Statutes, Section 69.051, is considered to meet the reporting requirements of Minnesota Statutes, Section 356.20.

The financial reporting requirement under Minnesota Statutes, Section 69.051, was first imposed as part of the fire state aid revisions of 1969 (Laws 1969, Chapter 1001, Section 5). From 1969 to 1986, all volunteer firefighter relief associations filed the same reporting form, which was initially prescribed by the Commissioner of Insurance and then by the Commissioner of Commerce. The 1969-1986 form was required to include the information needed by the Commissioner to reveal the true financial condition of the relief association and to reveal the extent of compliance by the relief association with the regulatory, financing, and funding provisions of the applicable state law. The financial report was to be prepared as of December 31 for the prior calendar year, was required to be countersigned by the municipal clerk, and was to be certified by an independent accountant or auditor, who was required to provide an opinion on the condition of the relief association and any exceptions.

In 1986, after the discovery of a significant fraud and misappropriation of funds involving the secretary of the Winona Police Relief Association, the local relief association financial reporting requirements to qualify for state aid under 69.051 were modified. The 1986 financial reporting law amendments gave the State Auditor authority and responsibility to audit all relief associations and centralized the receipt and certification of financial statements of all relief associations in the Office of the State Auditor, provided that the Commissioner of Revenue process the distribution of state aid only after notification by the State Auditor that a relief association's financial reports and actuarial valuations are complete, and provided more municipal oversight of the relief associations by requiring annual reports to the municipality of relief association financial affairs. The 1986 legislation also gave the Commission authority to request information from the various funds and the funds are authorized and directed to promptly furnish any data requested and required the State Auditor in performing an audit or examination of a pension plan to notify the Commission if the audit or examination reveals malfeasance, misfeasance, or nonfeasance in office and requires the Commissioner of Revenue to notify the Commission if the State Auditor has not filed with the Commissioner of Revenue the required financial compliance reports by the July 1 deadline. The State Auditor was required to oversee the completion and auditing of financial statements of fire relief associations rather than the Commissioner of Revenue and was required to notify the Commissioner of Revenue by July 1 in any year which relief associations that with the financial reporting requirements necessary to qualify for fire state aid, and the primary administration of the fire and police state aid program was transferred from the Department of Revenue to the State Auditor. The deadline for fire state aid applications was moved from June 1 to July 1.

The requirements for the preparation and submission of financial reports is based on the size of the relief association, and for volunteer associations with assets or liabilities of at least $200,000, the relief association must:

1) Prepare its annual financial reports on forms prescribed by the State Auditor;
2) File the report in its office for public inspection and present it to the city council; and
3) Submit audited financial statements to the State Auditor within 180 days after the close of the fiscal year.

For volunteer associations with assets and liabilities less than $200,000, the relief association must:

1) Prepare annually a detailed financial statement on a form prescribed by the State Auditor;
2) Have the detailed financial statement certified by an independent public accountant or auditor or the auditor that regularly examines the books of the municipality;
3) File the statement in its office for public inspection and present it to the city council within 45 days of the close of the fiscal year; and
4) Send a copy of the statement to the State Auditor within 90 days of the end of the fiscal year.

The surety bond of the volunteer firefighter relief association treasurer must be at least 10 percent of the assets, but is not required to exceed $500,000.

Discussion and Analysis

Draft LCPR04-291 would modify the timing of the shift of a small volunteer firefighter relief association, with under $200,000 in liabilities or assets, which becomes a larger volunteer firefighter relief association, with at least $200,000 in liabilities or assets, from the filing of financial statements to the filing of financial reports and audits, by changing the reporting requirements for the year next following the year of the liability or asset growth, and by requiring any volunteer firefighter relief association that is once required to file a financial report and audit to continue to be required to file financial reports and audits irrespective of its future liability or asset amount changes.

If the working group favors the change contained in Draft LCPR04-291 as part of its eventual recommendations, the Commission staff will likely raise the following pension and related public policy issues for the Legislative Commission on Pensions and Retirement to consider:

1. Appropriate Liability or Asset Breakpoint for Requiring Annual Financial Reports and Audits. The policy issue is the appropriate breakpoint in the amount of assets or liabilities for the imposition of the requirement for the use of greater professional accounting help and the preparation of annual financial reports and audits. Currently, the breakpoint is set at $200,000 in either liabilities or assets. As of the December 31, 2002, compilation of volunteer firefighter relief association information prepared by the State Auditor, 383 volunteer firefighter relief associations, or 54.71 percent of the total number of volunteer firefighter relief associations, had assets and liabilities under $200,000. By not being required to prepare and file a financial report and audit by an accountant rather than prepare and file a financial statement, these volunteer firefighter relief associations are not gaining the professional assistance that many likely need. These volunteer firefighter relief associations also avoid the several hundreds of dollars in accounting fees that would accompany that professional assistance. Minnesota, with the second largest number of public employee pension plans of the 50 states, has decided to utilize a decentralized approach to pension plan coverage and administration. With that decentralization, there is a substantial risk of substandard or unprofessional activities. Public pension plans function as specialized insurance companies and the operation of an insurance program requires a certain degree of sophistication and attention to detail. With volunteer fire departments, the foremost goal presumably is to achieve a significant degree of competence and professionalism in firefighting. If firefighters also happen to be competent pension plan managers, that is a policy benefit, but attempting to gain pension plan administrative competence could be competing effort or a distraction. Since greater pension plan administrative competence and professionalism can be gained through a contracted consultant, consideration should be given to encouraging that trend by lowering the breakpoint trigger amount that requires the use of a public accountant and the preparation of a full annual financial report.

2. Impact of Reporting Requirements on the Reviews by the Office of the State Auditor for Fire State Aid Qualification. The policy issue is the impact of the financial reporting deadlines on the determination of fire state aid qualification by the Office of the State Auditor and the appropriateness of reconsidering those deadlines. The 1986 financial reporting legislation (Laws 1986, Chapter 359)

that required the filing of a financial report and audit by the larger volunteer firefighter relief associations included a change in the deadline date for the review of the Office of the State Auditor and the determination of qualifications for fire state aid. Before 1986, all volunteer firefighter relief associations were required to be file on or before June 1, annually. In 1986, the financial statements by volunteer firefighter relief associations with assets or liabilities under $200,000 were required to be filed by April 1, annually and the financial reports and audits by volunteer firefighter relief associations with assets or liabilities equal to or in excess of $200,000 were required to be filed by July 1, annually. For 2003, the twin reporting deadlines resulted in 55 percent of the volunteer firefighter relief associations obligated to file before April 1 (90 days after the fiscal year end) and 45 percent of the volunteer firefighter relief associations obligated to file before July 1 (180 days after the fiscal year end). The Commission file on the 1986 legislation does not shed light on the specific rationale for the two particular reporting dates. The 2004 filings with the Office of the State Auditor indicate a potential trend for later and later volunteer firefighter relief association filings, which undoubtedly negatively impacts on the scheduling of the workload of that office. If a better allocation of the workload of the State Auditor's office is desired by policymakers or by volunteer firefighter relief association community, that improved allocation can be accomplished either by volunteer firefighter relief association self-help efforts or by further revisions in the filing deadlines.

3. Appropriateness of Pursuing a Collective Approach for Improved Volunteer Firefighter Relief Association Financial Reporting. The policy issue is whether or not it would be appropriate for volunteer firefighter relief associations to pursue a more collective approach to providing financial reporting. Both municipal governments and local pension plans have engaged in collective arrangements for the performance of functions in the past and some collective approach may be appropriate in this instance. In the late 1970s, when required to improve their actuarial reporting, the then 48 local police and paid firefighter relief associations collectively retained a consulting actuarial firm to prepare the necessary reporting with greater cost efficiency. Minnesota cities have entered into collective arrangements to gain or provide services, such as the League of Minnesota Cities Insurance Trust to provide property and casualty insurance coverage and workers' compensation coverage. Several Pennsylvania municipal pension plans contract with a common third party pension plan administrator for plan administration, financial reporting, and actuarial reporting. Under the auspices of the Minnesota Fire Department Association, the Minnesota Area Relief Association Coalition, the Minnesota Fire Chiefs Association, and the League of Minnesota Cities, volunteer firefighter relief associations could engage one accounting firm statewide or several accounting firms regionally to prepare the required financial reports and audits, presumably with greater expertise than is available with the myriad collection of accountants currently providing these services and at a more competitive cost.

A bill for an act

relating to retirement; volunteer firefighter relief associations; clarifying the minimum asset or liability figure triggering financial reports; amending Minnesota Statutes 2004, section 69.051, subdivisions 1 and 1a.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 69.051, subdivision 1, is amended to read:

Subdivision 1. **FINANCIAL REPORT AND AUDIT.** The board of each salaried firefighters' relief association, police relief association, and volunteer firefighters' relief association as defined in section 424A.001, subdivision 4, with assets of at least $200,000 or liabilities of at least $200,000 in the prior year or in any previous year, according to the ~~most recent~~ applicable actuarial valuation or financial report if no valuation is required, shall:

(1) Prepare a financial report covering the special and general funds of the relief association for the preceding fiscal year on a form prescribed by the state auditor. The financial report ~~shall~~ must contain financial statements and disclosures which present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in compliance with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial

report ~~shall~~ <u>must</u> be countersigned by the municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief association is a firefighters' relief association which is directly associated with a municipal fire department or is a police relief association, or countersigned by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the <u>volunteer firefighter</u> relief association is a subsidiary of an independent nonprofit firefighting corporation;

(2) File the financial report in its office for public inspection and present it to the city council after the close of the fiscal year. One copy of the financial report ~~shall~~ <u>must</u> be furnished to the state auditor after the close of the fiscal year; and

(3) Submit to the state auditor audited financial statements which have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year. The state auditor may accept this report in lieu of the report required in clause (2).

Sec. 2. Minnesota Statutes 2004, section 69.051, subdivision 1a, is amended to read:

Subd. 1a. **FINANCIAL STATEMENT.** (a) The board of each volunteer firefighters' relief association, as defined in section 424A.001, subdivision 4, ~~with assets of less than $200,000 and liabilities less than $200,000, according to the most recent financial report, shall~~ <u>that is not required to file a financial report and audit under subdivision 1 must</u> prepare a detailed statement of the financial affairs for the preceding fiscal year of the relief association's special and general funds in the style and form prescribed by the state auditor. The detailed statement must show the sources and amounts of all money received; all disbursements, accounts payable and accounts receivable; the amount of money remaining in the treasury; total assets including a listing of all investments; the accrued liabilities; and all items necessary to show accurately the revenues and expenditures and financial position of the relief association.

(b) The detailed financial statement required under paragraph (a) must be certified by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the examination shall give an opinion as to the condition of the special and general funds of the relief association, and shall comment upon any exceptions to the report. The independent accountant or auditor ~~shall~~ must have at least five years of public accounting, auditing, or similar experience, and ~~shall~~ must not be an active, inactive, or retired member of the relief association or the fire or police department.

(c) The detailed statement required under paragraph (a) must be countersigned by the municipal clerk or clerk-treasurer of the municipality, or, where applicable, by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the relief association is a subsidiary of an independent nonprofit firefighting corporation.

(d) The volunteer firefighters' relief association board must file the detailed statement required under paragraph (a) in the relief association office for public inspection and present it to the city council within 45 days after the close of the fiscal year, and must submit a copy of the detailed statement to the state auditor within 90 days of the close of the fiscal year.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective on July 1, 2005.

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-283; Revised Financial Requirements for Monthly Benefit Volunteer Firefighter Relief Associations *(UPDATED 11/16/04)*

DATE: November 16, 2004

Summary of Document LCPR04-283

Document LCPR04-283 amends Minnesota Statutes, Section 424A.02, Subdivision 3, the lump sum volunteer firefighter relief association and monthly benefit volunteer firefighter relief association flexible service pension maximums, by reducing the amount of the three-year average annual financing required per firefighter for a given monthly benefit volunteer firefighter relief association service pension level from $84 for each dollar per month per year of service to $81.

Potential Policy Issues

Document LCPR04-283 would allow monthly benefit volunteer firefighter relief associations to pay a higher monthly benefit service pension with a given level of three-year average annual financing per firefighter, reducing the required level of three-year financing per dollar of monthly benefit per year of service from $84 to $81.

If the working group favors the change contained in Document LCPR04-283 as part of its eventual recommendations, the potential policy issues that the Commission staff would likely raise for the Legislative Commission on Pensions and Retirement would be the following:

1. Appropriateness of a Reduction in the Required Funding for Monthly Service Pensions. The policy issue is the appropriateness of a reduction in the funding required for a given monthly service pension amount under the flexible service pension maximums. The proposed $81 required average per firefighter financing requirement is based on Commission staff research. The Office of the State Auditor provided the Commission staff with data from the monthly benefit volunteer firefighter relief association actuarial valuations. The Commission staff reviewed the data and removed a few cases which would distort results, such as data which claimed that a plan was providing a monthly benefit but the indicated normal cost was zero, and examined the relationship between normal cost per member as determined from the actuarial valuations, and benefit levels per month per year of service provided by these plans. A graph of the results is contained in Attachment A. The graph suggests that for every one-dollar increase in monthly benefit per year of service, the normal cost of the plan will increase by $77.70. The scatter pattern of the individual cases suggests that the relationship is very consistent and linear. The Commission staff found that there is little justification for suggesting that a different relationship exists at lower levels than at higher levels. The Commission staff also applied techniques to refine estimates given the nature of the scatter the data creates. The variability around the graph line is higher at higher benefit levels and that revised statistical approach produced a similar result, suggesting that for each dollar increase in monthly benefits, the normal costs increases by $78.40.

   The proposed change would split the difference between the flexible service pension maximum schedule in existing law, which generally requires a support level increase of $84 for each one dollar increase in monthly benefits, and the approximately $78 increase in support for each one dollar increase in benefits suggested by the Commission staff study, or a requirement of an $81 increase in support for each one dollar increase in monthly benefit per year of service to produce a result that is reasonably conservative.

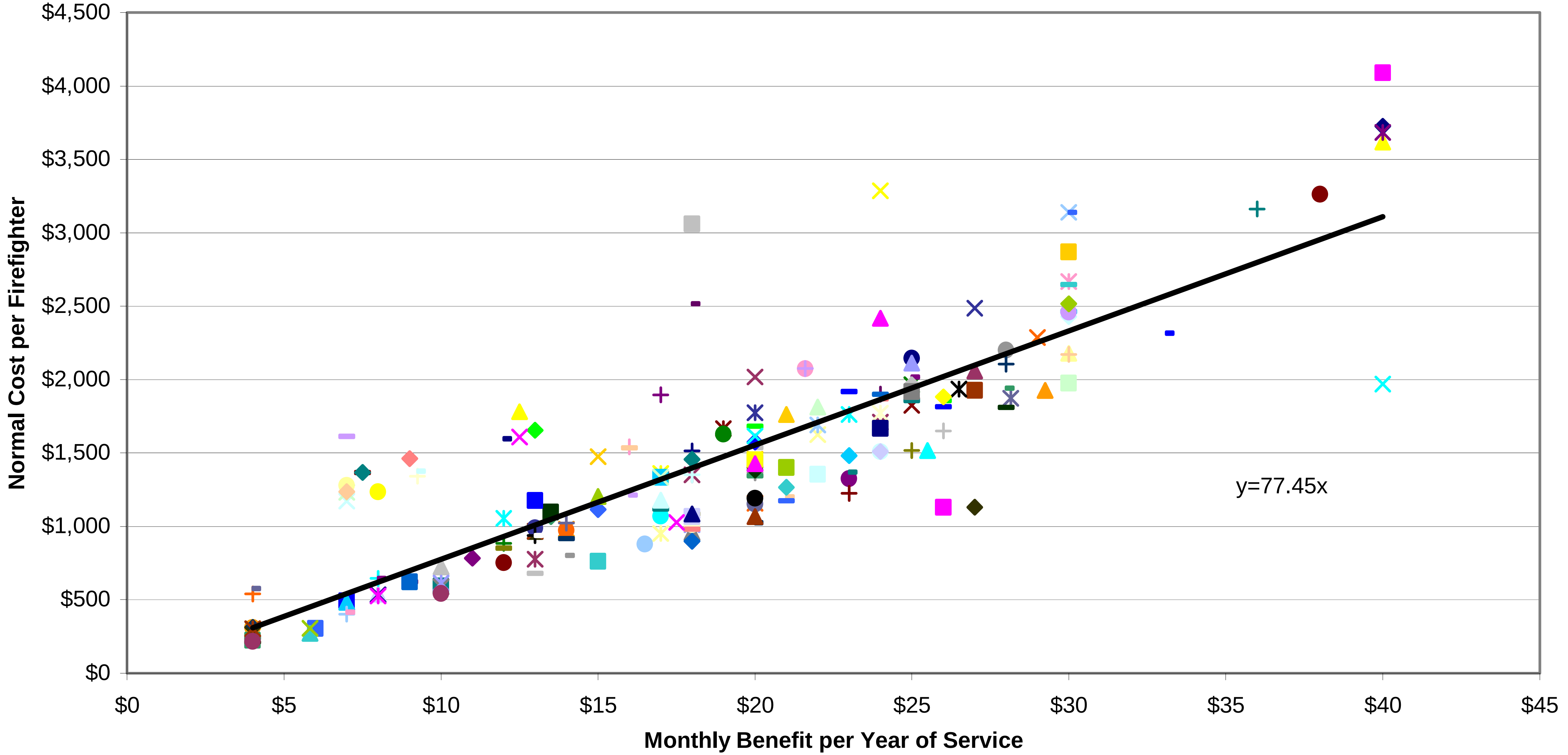
2. Appropriateness of Encouraging Monthly Benefit Volunteer Firefighter Relief Association Benefit Increases. The policy issue is the appropriateness of the encouragement for immediate monthly benefit volunteer firefighter relief association benefit increases that a reduction in the required average financing requirement per firefighter will likely produce. By virtue of the change, every monthly benefit volunteer firefighter relief association could increase its benefit by at least one dollar per month per year of service without any increase in the current level of the relief association average

financing per firefighter. Any benefit increase, however, would require municipal approval unless the relief association is exceedingly well funded before and after the benefit increase. While the current flexible service pension maximum three-year average financing requirement for any given level of benefits is clearly very conservative, promoting a benefit increase without a showing for each relief association that the current benefit level is insufficient to recruit new firefighters, to retain existing firefighters, and to systematically out-transition senior firefighters.

3. Appropriate Timing for Implementation. The policy issue is the appropriateness of the proposed timing for implementing the proposed change in the monthly benefit volunteer firefighter relief association flexible service pension maximums average financing requirements. The proposed timing for implementation would be July 1, 2005. Alternative effective dates could be an accelerated date, the day following enactment, or could be a delayed date, either December 31, 2005, or some later date.

4. Appropriateness of Grandparenting the Immediately Prior Service Pensions Amount as a Maximum Service Pension Amount. The related policy issue is the appropriateness of reinstating language from the original 1979 volunteer firefighter relief association recodifications and revisions that retains the prior service pension amount as the maximum service pension amount if the prior amount I s greater than the calculated maximum amount under the flexible service pension sliding scale procedure. The provision was eliminated in 1993 (Laws 1993, Chapter 244), when vetoed 1992 volunteer firefighter relief association legislation was reenacted by the Legislature, in favor of current Minnesota Statutes, Section 424A.02, Subdivision 3, Paragraph (f). Apparently, there are instances when the average amount of financing per firefighter drops for reasons unrelated to a relation ship of fire state aid or an increase in the number of firefighters and the post-1993 statute would cause an unintended benefit reduction by a volunteer firefighter relief association. The reincorporation of the pre-1993 language would avoid this hardship. Amendment LCPR04-295 adds the pre-1993 language.

## Attachment A



M ............... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR04-283, as follows:

Page 2, line 13, after the first "the" insert "greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the"

Page 4, line 13, after the second "the" insert "greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the"

A bill for an act

relating to retirement; monthly benefit volunteer firefighter relief associations; modifying the average annual financing per firefighter requirement for the flexible service pension maximums; amending Minnesota Statutes 2004, section 424A.02, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 3, is amended to read:

Subd. 3. **FLEXIBLE SERVICE PENSION MAXIMUMS.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association, 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 one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 69.772, subdivision

2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

| Minimum Average Amount of Available Financing per Firefighter | Maximum Service Pension Amount Payable per Month for Each Year of Service |
|---|---|
| $... | $ .25 |
| ~~42~~ 41 | .50 |
| ~~84~~ 81 | 1.00 |
| ~~126~~ 122 | 1.50 |
| ~~168~~ 162 | 2.00 |
| ~~209~~ 203 | 2.50 |
| ~~252~~ 243 | 3.00 |
| ~~294~~ 284 | 3.50 |
| ~~335~~ 324 | 4.00 |
| ~~378~~ 365 | 4.50 |
| ~~420~~ 405 | 5.00 |
| ~~503~~ 486 | 6.00 |
| ~~587~~ 567 | 7.00 |
| ~~672~~ 648 | 8.00 |
| ~~755~~ 729 | 9.00 |
| ~~839~~ 810 | 10.00 |
| ~~923~~ 891 | 11.00 |
| ~~1007~~ 972 | 12.00 |
| ~~1090~~ 1053 | 13.00 |

| | | |
|---|---|---|
| 3.1 | ~~1175~~ 1134 | 14.00 |
| 3.2 | ~~1259~~ 1215 | 15.00 |
| 3.3 | ~~1342~~ 1296 | 16.00 |
| 3.4 | ~~1427~~ 1377 | 17.00 |
| 3.5 | ~~1510~~ 1458 | 18.00 |
| 3.6 | ~~1594~~ 1539 | 19.00 |
| 3.7 | ~~1677~~ 1620 | 20.00 |
| 3.8 | ~~1762~~ 1701 | 21.00 |
| 3.9 | ~~1845~~ 1782 | 22.00 |
| 3.10 | ~~1888~~ 1823 | 22.50 |
| 3.11 | ~~1929~~ 1863 | 23.00 |
| 3.12 | ~~2014~~ 1944 | 24.00 |
| 3.13 | ~~2098~~ 2025 | 25.00 |
| 3.14 | ~~2183~~ 2106 | 26.00 |
| 3.15 | ~~2267~~ 2187 | 27.00 |
| 3.16 | ~~2351~~ 2268 | 28.00 |
| 3.17 | ~~2436~~ 2349 | 29.00 |
| 3.18 | ~~2520~~ 2430 | 30.00 |
| 3.19 | ~~2604~~ 2511 | 31.00 |
| 3.20 | ~~2689~~ 2592 | 32.00 |
| 3.21 | ~~2773~~ 2673 | 33.00 |
| 3.22 | ~~2857~~ 2754 | 34.00 |
| 3.23 | ~~2942~~ 2834 | 35.00 |
| 3.24 | ~~3026~~ 2916 | 36.00 |
| 3.25 | ~~3110~~ 2997 | 37.00 |
| 3.26 | ~~3194~~ 3078 | 38.00 |
| 3.27 | ~~3278~~ 3159 | 39.00 |
| 3.28 | ~~3362~~ 3240 | 40.00 |
| 3.29 | ~~3446~~ 3321 | 41.00 |
| 3.30 | ~~3530~~ 3402 | 42.00 |
| 3.31 | ~~3614~~ 3483 | 43.00 |
| 3.32 | ~~3698~~ 3564 | 44.00 |
| 3.33 | ~~3782~~ 3645 | 45.00 |
| 3.34 | ~~3866~~ 3726 | 46.00 |
| 3.35 | ~~3950~~ 3807 | 47.00 |
| 3.36 | ~~4034~~ 3888 | 48.00 |

| | |
|---|---|
| ~~4118~~ 3969 | 49.00 |
| ~~4202~~ 4050 | 50.00 |
| ~~4286~~ 4131 | 51.00 |
| ~~4370~~ 4212 | 52.00 |

Effective beginning December 31, 2003:

| | |
|---|---|
| ~~4454~~ 4293 | 53.00 |
| ~~4538~~ 4374 | 54.00 |
| ~~4622~~ 4455 | 55.00 |
| ~~4706~~ 4536 | 56.00 |

(d) For a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, the maximum lump sum service pension amount for each year of service credited that may be provided for in the bylaws is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

| Minimum Average Amount of Available Financing per Firefighter | Maximum Lump Sum Service Pension Amount Payable for Each Year of Service |
|---|---|
| $.. | $10 |
| 11 | 20 |
| 16 | 30 |
| 23 | 40 |
| 27 | 50 |
| 32 | 60 |
| 43 | 80 |
| 54 | 100 |
| 65 | 120 |
| 77 | 140 |
| 86 | 160 |
| 97 | 180 |
| 108 | 200 |
| 131 | 240 |
| 151 | 280 |
| 173 | 320 |
| 194 | 360 |

| | | |
|---|---|---|
| 5.1 | 216 | 400 |
| 5.2 | 239 | 440 |
| 5.3 | 259 | 480 |
| 5.4 | 281 | 520 |
| 5.5 | 302 | 560 |
| 5.6 | 324 | 600 |
| 5.7 | 347 | 640 |
| 5.8 | 367 | 680 |
| 5.9 | 389 | 720 |
| 5.10 | 410 | 760 |
| 5.11 | 432 | 800 |
| 5.12 | 486 | 900 |
| 5.13 | 540 | 1000 |
| 5.14 | 594 | 1100 |
| 5.15 | 648 | 1200 |
| 5.16 | 702 | 1300 |
| 5.17 | 756 | 1400 |
| 5.18 | 810 | 1500 |
| 5.19 | 864 | 1600 |
| 5.20 | 918 | 1700 |
| 5.21 | 972 | 1800 |
| 5.22 | 1026 | 1900 |
| 5.23 | 1080 | 2000 |
| 5.24 | 1134 | 2100 |
| 5.25 | 1188 | 2200 |
| 5.26 | 1242 | 2300 |
| 5.27 | 1296 | 2400 |
| 5.28 | 1350 | 2500 |
| 5.29 | 1404 | 2600 |
| 5.30 | 1458 | 2700 |
| 5.31 | 1512 | 2800 |
| 5.32 | 1566 | 2900 |
| 5.33 | 1620 | 3000 |
| 5.34 | 1672 | 3100 |
| 5.35 | 1726 | 3200 |
| 5.36 | 1753 | 3250 |

| | | |
|---|---|---|
| 6.1 | 1780 | 3300 |
| 6.2 | 1820 | 3375 |
| 6.3 | 1834 | 3400 |
| 6.4 | 1888 | 3500 |
| 6.5 | 1942 | 3600 |
| 6.6 | 1996 | 3700 |
| 6.7 | 2023 | 3750 |
| 6.8 | 2050 | 3800 |
| 6.9 | 2104 | 3900 |
| 6.10 | 2158 | 4000 |
| 6.11 | 2212 | 4100 |
| 6.12 | 2265 | 4200 |
| 6.13 | 2319 | 4300 |
| 6.14 | 2373 | 4400 |
| 6.15 | 2427 | 4500 |
| 6.16 | 2481 | 4600 |
| 6.17 | 2535 | 4700 |
| 6.18 | 2589 | 4800 |
| 6.19 | 2643 | 4900 |
| 6.20 | 2697 | 5000 |
| 6.21 | 2751 | 5100 |
| 6.22 | 2805 | 5200 |
| 6.23 | 2859 | 5300 |
| 6.24 | 2913 | 5400 |
| 6.25 | 2967 | 5500 |
| 6.26 | 3021 | 5600 |
| 6.27 | 3075 | 5700 |
| 6.28 | 3129 | 5800 |
| 6.29 | 3183 | 5900 |
| 6.30 | 3237 | 6000 |
| 6.31 | 3291 | 6100 |
| 6.32 | 3345 | 6200 |
| 6.33 | 3399 | 6300 |
| 6.34 | 3453 | 6400 |
| 6.35 | 3507 | 6500 |
| 6.36 | 3561 | 6600 |

| | |
|---|---|
| 3615 | 6700 |
| 3669 | 6800 |
| 3723 | 6900 |
| 3777 | 7000 |
| Effective beginning December 31, 2003: | |
| 3831 | 7100 |
| 3885 | 7200 |
| 3939 | 7300 |
| 3993 | 7400 |
| 4047 | 7500 |

(e) For a relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a relief association establishes a service pension in compliance with the applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on July 1, 2005.

A bill for an act

relating to retirement; monthly benefit volunteer firefighter relief associations; modifying the average annual financing per firefighter requirement for the flexible service pension maximums; amending Minnesota Statutes 2004, section 424A.02, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 3, is amended to read:

Subd. 3. **FLEXIBLE SERVICE PENSION MAXIMUMS.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association, 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 one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 69.772, subdivision

2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

| Minimum Average Amount of Available Financing per Firefighter | Maximum Service Pension Amount Payable per Month for Each Year of Service |
|---|---|
| $... | $ .25 |
| ~~42~~ 41 | .50 |
| ~~84~~ 81 | 1.00 |
| ~~126~~ 122 | 1.50 |
| ~~168~~ 162 | 2.00 |
| ~~209~~ 203 | 2.50 |
| ~~252~~ 243 | 3.00 |
| ~~294~~ 284 | 3.50 |
| ~~335~~ 324 | 4.00 |
| ~~378~~ 365 | 4.50 |
| ~~420~~ 405 | 5.00 |
| ~~503~~ 486 | 6.00 |
| ~~587~~ 567 | 7.00 |
| ~~672~~ 648 | 8.00 |
| ~~755~~ 729 | 9.00 |
| ~~839~~ 810 | 10.00 |
| ~~923~~ 891 | 11.00 |
| ~~1007~~ 972 | 12.00 |
| ~~1090~~ 1053 | 13.00 |

| | | |
|---|---|---|
| 3.1 | ~~1175~~ 1134 | 14.00 |
| 3.2 | ~~1259~~ 1215 | 15.00 |
| 3.3 | ~~1342~~ 1296 | 16.00 |
| 3.4 | ~~1427~~ 1377 | 17.00 |
| 3.5 | ~~1510~~ 1458 | 18.00 |
| 3.6 | ~~1594~~ 1539 | 19.00 |
| 3.7 | ~~1677~~ 1620 | 20.00 |
| 3.8 | ~~1762~~ 1701 | 21.00 |
| 3.9 | ~~1845~~ 1782 | 22.00 |
| 3.10 | ~~1888~~ 1823 | 22.50 |
| 3.11 | ~~1929~~ 1863 | 23.00 |
| 3.12 | ~~2014~~ 1944 | 24.00 |
| 3.13 | ~~2098~~ 2025 | 25.00 |
| 3.14 | ~~2183~~ 2106 | 26.00 |
| 3.15 | ~~2267~~ 2187 | 27.00 |
| 3.16 | ~~2351~~ 2268 | 28.00 |
| 3.17 | ~~2436~~ 2349 | 29.00 |
| 3.18 | ~~2520~~ 2430 | 30.00 |
| 3.19 | ~~2604~~ 2511 | 31.00 |
| 3.20 | ~~2689~~ 2592 | 32.00 |
| 3.21 | ~~2773~~ 2673 | 33.00 |
| 3.22 | ~~2857~~ 2754 | 34.00 |
| 3.23 | ~~2942~~ 2834 | 35.00 |
| 3.24 | ~~3026~~ 2916 | 36.00 |
| 3.25 | ~~3110~~ 2997 | 37.00 |
| 3.26 | ~~3194~~ 3078 | 38.00 |
| 3.27 | ~~3278~~ 3159 | 39.00 |
| 3.28 | ~~3362~~ 3240 | 40.00 |
| 3.29 | ~~3446~~ 3321 | 41.00 |
| 3.30 | ~~3530~~ 3402 | 42.00 |
| 3.31 | ~~3614~~ 3483 | 43.00 |
| 3.32 | ~~3698~~ 3564 | 44.00 |
| 3.33 | ~~3782~~ 3645 | 45.00 |
| 3.34 | ~~3866~~ 3726 | 46.00 |
| 3.35 | ~~3950~~ 3807 | 47.00 |
| 3.36 | ~~4034~~ 3888 | 48.00 |

| | |
|---|---|
| ~~4118~~ 3969 | 49.00 |
| ~~4202~~ 4050 | 50.00 |
| ~~4286~~ 4131 | 51.00 |
| ~~4370~~ 4212 | 52.00 |

Effective beginning December 31, 2003:

| | |
|---|---|
| ~~4454~~ 4293 | 53.00 |
| ~~4538~~ 4374 | 54.00 |
| ~~4622~~ 4455 | 55.00 |
| ~~4706~~ 4536 | 56.00 |

(d) For a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, the maximum lump sum service pension amount for each year of service credited that may be provided for in the bylaws is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

| Minimum Average Amount of Available Financing per Firefighter | Maximum Lump Sum Service Pension Amount Payable for Each Year of Service |
|---|---|
| $.. | $10 |
| 11 | 20 |
| 16 | 30 |
| 23 | 40 |
| 27 | 50 |
| 32 | 60 |
| 43 | 80 |
| 54 | 100 |
| 65 | 120 |
| 77 | 140 |
| 86 | 160 |
| 97 | 180 |
| 108 | 200 |
| 131 | 240 |
| 151 | 280 |
| 173 | 320 |
| 194 | 360 |

| | | |
|---|---|---|
| 5.1 | 216 | 400 |
| 5.2 | 239 | 440 |
| 5.3 | 259 | 480 |
| 5.4 | 281 | 520 |
| 5.5 | 302 | 560 |
| 5.6 | 324 | 600 |
| 5.7 | 347 | 640 |
| 5.8 | 367 | 680 |
| 5.9 | 389 | 720 |
| 5.10 | 410 | 760 |
| 5.11 | 432 | 800 |
| 5.12 | 486 | 900 |
| 5.13 | 540 | 1000 |
| 5.14 | 594 | 1100 |
| 5.15 | 648 | 1200 |
| 5.16 | 702 | 1300 |
| 5.17 | 756 | 1400 |
| 5.18 | 810 | 1500 |
| 5.19 | 864 | 1600 |
| 5.20 | 918 | 1700 |
| 5.21 | 972 | 1800 |
| 5.22 | 1026 | 1900 |
| 5.23 | 1080 | 2000 |
| 5.24 | 1134 | 2100 |
| 5.25 | 1188 | 2200 |
| 5.26 | 1242 | 2300 |
| 5.27 | 1296 | 2400 |
| 5.28 | 1350 | 2500 |
| 5.29 | 1404 | 2600 |
| 5.30 | 1458 | 2700 |
| 5.31 | 1512 | 2800 |
| 5.32 | 1566 | 2900 |
| 5.33 | 1620 | 3000 |
| 5.34 | 1672 | 3100 |
| 5.35 | 1726 | 3200 |
| 5.36 | 1753 | 3250 |

| | | |
|---|---|---|
| 6.1 | 1780 | 3300 |
| 6.2 | 1820 | 3375 |
| 6.3 | 1834 | 3400 |
| 6.4 | 1888 | 3500 |
| 6.5 | 1942 | 3600 |
| 6.6 | 1996 | 3700 |
| 6.7 | 2023 | 3750 |
| 6.8 | 2050 | 3800 |
| 6.9 | 2104 | 3900 |
| 6.10 | 2158 | 4000 |
| 6.11 | 2212 | 4100 |
| 6.12 | 2265 | 4200 |
| 6.13 | 2319 | 4300 |
| 6.14 | 2373 | 4400 |
| 6.15 | 2427 | 4500 |
| 6.16 | 2481 | 4600 |
| 6.17 | 2535 | 4700 |
| 6.18 | 2589 | 4800 |
| 6.19 | 2643 | 4900 |
| 6.20 | 2697 | 5000 |
| 6.21 | 2751 | 5100 |
| 6.22 | 2805 | 5200 |
| 6.23 | 2859 | 5300 |
| 6.24 | 2913 | 5400 |
| 6.25 | 2967 | 5500 |
| 6.26 | 3021 | 5600 |
| 6.27 | 3075 | 5700 |
| 6.28 | 3129 | 5800 |
| 6.29 | 3183 | 5900 |
| 6.30 | 3237 | 6000 |
| 6.31 | 3291 | 6100 |
| 6.32 | 3345 | 6200 |
| 6.33 | 3399 | 6300 |
| 6.34 | 3453 | 6400 |
| 6.35 | 3507 | 6500 |
| 6.36 | 3561 | 6600 |

| | |
|---|---|
| 3615 | 6700 |
| 3669 | 6800 |
| 3723 | 6900 |
| 3777 | 7000 |
| Effective beginning December 31, 2003: | |
| 3831 | 7100 |
| 3885 | 7200 |
| 3939 | 7300 |
| 3993 | 7400 |
| 4047 | 7500 |

(e) For a relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a relief association establishes a service pension in compliance with the applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on July 1, 2005.

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-293; Limiting Monthly Benefit Volunteer Firefighter Relief Association Disability Benefits to Age 50

DATE: November 16, 2004

Summary of Document LCPR04-293

Document LCPR04-293 amends Minnesota Statutes, Section 424A.02, Subdivision 9, the volunteer firefighter relief association ancillary benefit limitations, by allowing monthly benefit and combination volunteer firefighter relief associations to prohibit the payment of disability benefits from the volunteer firefighter relief association before age 50.

Potential Policy Issues

Document LCPR04-293 would limit the earliest payment of a monthly benefit volunteer firefighter relief association disability benefit to age 50 or later if the bylaws of the volunteer firefighter relief association so provide.

If the working group favors the change contained in Document LCPR04-293 as part of its eventual recommendations, the Commission staff would likely raise for the Legislative Commission on Pensions and Retirement the following pension and related public policy issues for discussion and consideration:

1. Appropriateness of an Age 50 Minimum Age For Monthly Benefit Volunteer Firefighter Relief Associations. The policy issue is the appropriateness of permitting a monthly benefit volunteer firefighter relief association or combination volunteer firefighter relief association to limit disability benefits to the post-age-50 period. The current ancillary benefit limits of Minnesota Statutes, Section 424A.02, Subdivision 9, were recommended by the Legislative Commission on Pensions and Retirement and enacted by the Legislature in 1979 largely to protect the actuarial underpinnings of the volunteer firefighter relief associations. The prohibitions on the payment of a monthly benefit volunteer firefighter relief association disability benefit before age 50 similarly would protect the small number of remaining monthly benefit volunteer firefighter relief associations and combination (i.e., lump sum and monthly benefit) volunteer firefighter relief associations from unexpected actuarial losses from disability benefits payable at an age earlier than the normal retirement age, usually age 50. The delay in the payment of disability benefits to age 50, when the service pension would normally be paid, may work a hardship on a relatively young disabled firefighter who may have limited resources and modest amounts of other insurance coverage. The hardship may be made more difficult if the disability suffered by the volunteer firefighter is related to or caused by the firefighter's fire department duties.

2. Appropriateness of Providing Disability Coverage to Deferred Members. The related policy issue is the appropriateness of volunteer firefighter relief associations to provide disability coverage to deferred members. Minnesota Statutes, Section 424A.02, Subdivision 9, does not specifically address the issue, leaving the element of potential benefit coverage to the volunteer firefighter relief association bylaws. Some volunteer firefighter relief associations apparently allow for the payment of disability benefits to deferred members. In the statewide and major local Minnesota public pension plans, deferred members are not accorded disability coverage in the general employee plans, but sometimes are accorded disability coverage in some public safety employee plans. Providing any disability coverage to individuals who are no longer active employees of the enterprise involved is a high actuarial liability practice that does not have a clear pension or employment policy basis. Potential Amendment LCPR04-294 would add a limitation prohibiting disability coverage by any volunteer firefighter relief association for deferred members.

M ............... moves to amend S.F. No. ....; H.F. No. .... (Document LCPR04-293), as follows:

Page 2, line 23, delete "and"

Page 2, line 30, after "50" insert "; and

(4) with respect to any relief association, no ancillary benefit on account of a disability is payable"

A bill for an act

relating to retirement; monthly benefit volunteer firefighter relief associations; limiting the payment of disability benefits to age 50; amending Minnesota Statutes 2004, section 424A.02, subdivision 9.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 9, is amended to read:

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~~ for which the governing bylaws provide solely for a lump sum service pension to a retiring member or provide for a lump sum service pension option and the retiring member selects the lump sum service pension option, no ancillary benefit may be paid to any former

(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; and

(3) with respect to a relief association for which the governing bylaws provide solely for a monthly benefit service pension to a retiring member or provide for a monthly benefit service pension or benefit option and the member selects the monthly benefit option, the relief association may provide in its bylaws that no ancillary benefit on account of a disability is payable before the member attains age 50.

Sec. 2. **EFFECTIVE DATE**

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-281; Lump Sum Volunteer Firefighter Relief Association Deferred Service Pension Interest Options

DATE: October 28, 2004

Summary of Document LCPR04-281

Document LCPR04-281 amends Minnesota Statutes, Section 424A.02, Subdivision 7, the general deferred volunteer firefighter service pension provision, by eliminating the current five percent interest option and by adding an option for interest at a rate up to five percent per annum, set by the board of trustees of the relief association and if approved by the applicable municipality, and payable from the first of the month next following the separation from active service until the last day of the month preceding the application for the deferred service pension upon a former active member attaining the normal retirement age.

Potential Policy Analysis

Document LCPR04-281 substitutes an option for deferred service pension a rate specified by the board of trustees and approved by the applicable municipality, up to five percent, for the current flat five percent deferred service pension interest option. The proposed change, if forwarded by the working group to the Legislature for consideration during the 2005 Legislative Session, will likely raise the following issues for Legislative Commission on Pensions and Retirement consideration as identified by the Commission staff:

1. Appropriate Role of Deferred Service Pensions and the Extent of Relief Association Encouragement of Deferrals. The policy issue is the question of the appropriate role of deferred service pensions and interest on deferred service pensions and the extent of desirable encouragement by relief associations of service pension deferrals. The philosophy of the volunteer firefighter community appears to have changed over the 25 years since the passage of Minnesota Statutes, Chapter 424A, the volunteer firefighter relief association law recodification, from minimal or nominal interest in providing any reward to deferred members in the past to considerable interest in rewarding deferred members currently. The policy goal of the Legislature in the 1979 recodification was to permit interest on deferred service pensions where a volunteer firefighter relief association was interested in doing so, but to do so in a manner that would protect the actuarial health of the relief association. In the 2000 amendments to Minnesota Statutes, Section 424A.02, Subdivision 7, the Minnesota Area Relief Association Coalition (MARAC) sought to allow deferred service pensioners to share in investment returns greater than the five percent interest assumption that underlies volunteer firefighter relief association actuarial work. The resulting 2000 legislation recommended by the Commission provided the separate account/separate investment vehicle as a means to provide a greater investment return on deferred service pensions and reward deferred service pensioners in a manner consistent with actuarial concerns and limitations. If the volunteer firefighter community desires to encourage volunteer firefighters to defer a service pension prior to reaching age 50 rather than to attempt to half-heartedly continue in active fire department service, deferred service pensions can be encouraged by providing interest on the pension amount during the deferral period. Greater interest on a deferred service pension will presumably provide a greater degree of encouragement, but the amount of interest should be consistent with the actuarial design of the volunteer firefighter relief association. Deferred service pension interest that does not exceed five percent is consistent with the actuarial design of volunteer firefighter relief associations.

2. Appropriateness of Eliminating the Flat Five Percent Interest Option. The policy issue is the appropriateness of eliminating the current flat five percent deferred volunteer firefighter service pension interest rate. The flat five percent rate option was introduced in 2000 (Laws 2000, Chapter 461, Article 15, Section 6), when the two prior options (i.e. no interest and interest at the relief association's actual investment performance rate up to five percent) were also expanded to include investment of the deferred service pension amount in a separate account or a separate investment vehicle where the deferred service pensioner bears the full investment risk of gain and loss. The five percent deferred service pension rate matches the five percent interest assumption that underlies the

funding of volunteer firefighter relief associations, meaning that a volunteer firefighter relief association does not take on any extraordinary risk of an unexpected funding loss by implementing the flat five percent interest rate.

3. Appropriateness of Setting Deferred Service Pension Interest at a Board-Established Rate. The policy issue is the appropriateness of permitting the volunteer firefighter relief association boards to set the interest rate on deferred service pensions at the discretion of the boards, subject to a five percent interest rate maximum. Since five percent is the underlying interest rate assumption, an interest rate on deferred service pensions set at less than five percent is not required to maintain the actuarial soundness of volunteer firefighter relief associations. The decision of a relief association board to credit deferred lump sum service pensions with less than a five percent interest rate logically must be driven by some other motivation, either a lack of confidence in the relief association's investment operation or a lack of commitment to deferred service pensioners. If a relief association's investments are unlikely to achieve a five percent average rate of investment performance, when the State's statewide and major local pension plans are expected to achieve an 8.5 percent average return, the efficiency and prowess of the relief association's investment program is seriously challenged. If the relief association lacks a commitment to deferred service pensioners, it raises the question of the rationale for the provision of any interest on deferred service pensions.

4. Appropriateness of Potentially Fluctuating Deferred Service Pension Interest Rates. The policy issue is the appropriateness of permitting volunteer firefighter relief associations to change the interest rate on deferred service pensions biannually, annually, semi-annually, or even monthly. If a relief association attempts to change the deferred service pension interest rate on a relatively frequent basis, the frequency of the potential changes will become administratively burdensome for the relief association and for the applicable municipality. Frequent changes in the interest rate creditable to deferred service pensions also will make the decision by a firefighter to defer a service pension more uncertain and potentially undesirable in achieving the overall goal of having a volunteer firefighter relief association service pension program.

A bill for an act

relating to retirement; volunteer firefighter relief associations; modifying the methods for crediting interest on deferred service pensions; amending Minnesota Statutes 2004, section 424A.02, subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **DEFERRED SERVICE PENSIONS.** (a) A member of a relief association ~~to which this section applies~~ 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 ~~starts~~ 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 ~~the~~ 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.

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

(d) Interest under paragraph (c), clause (2), 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) 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.

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

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on July 1, 2005.

# State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-296; Deferred Service Pension Investment Return Crediting for Defined Contribution Volunteer Firefighter Relief Associations

DATE: November 16, 2004

Summary of Document LCPR04-296

Document LCPR04-296 amends Minnesota Statutes, Section 424A.02, Subdivision 4, the specific regulation of defined contribution volunteer firefighter relief associations, and Subdivision 7, the entitlement to a deferred service pension and the regulation of interest on deferred service pensions, to permit defined contribution volunteer firefighter relief associations to credit proportional amounts of investment gains or losses along with active members as of the most recent post date for determining and crediting investment return investment and to restrict the current deferred service pension interest provision to lump sum defined benefit volunteer firefighter relief associations.

Potential Policy Issues

Document LCPR04-296 excludes defined contribution volunteer firefighter relief associations from the current regulation of deferred service pension interest rates and permits defined contribution volunteer firefighter relief associations to credit investment performance to deferred member accounts in the same manner as it credits investment performance to active members.

If the working group favors the changes contained in Document LCPR04-296 as part of its eventual recommendations, the potential policy issues that the Commission staff would likely raise for the Legislative Commission on Pensions and Retirement would be the following:

1. Appropriateness of Special Defined Contribution Volunteer Firefighter Relief Association Deferred Service Pension Interest Rule. The policy issue is the appropriateness of augmenting the general volunteer firefighter relief association deferred service pension interest rules for defined contribution volunteer firefighter relief associations. The current general deferred service pension rules include options that are entirely workable for defined contribution volunteer firefighter relief associations, either no interest, interest at the rate equal to the time-weighted total rate of investment return as reported by the State Auditor's office, or the investment performance earned by a separate investment account or by a separate investment vehicle, and one option that is not workable fore defined contribution volunteer firefighter relief associations, interest set at a five percent rate. The philosophy of the volunteer firefighter community appears to have changed over the 25 years since the passage of Minnesota Statutes, Chapter 424A, the volunteer firefighter relief association law recodification, from minimal or nominal interest in providing any reward to deferred members in 1979 to considerable interest in rewarding deferred members in 2004. The policy goal of the Legislature in the 1979 recodification was to permit interest on deferred service pensions where a volunteer firefighter relief association is interested in doing so, but also to protect the actuarial health of the relief association. In the 2000 amendments to Minnesota Statutes, Section 424A.02, Subdivision 7, the Minnesota Area Relief Association Coalition (MARAC) sought to allow deferred service pensioners to share in investment returns greater than the five percent interest assumption that underlies volunteer firefighter relief association actuarial work. The resulting 2000 legislation recommended by the Commission provided the separate account/separate investment vehicle as a means to provide greater investment return consistent with actuarial concerns and limitations. The proposed change, allowing defined contribution volunteer firefighter relief associations to include deferred members in the allocation of investment returns with active members as an additional deferred service pension option, minimizes the administrative complexity of the interest crediting practice for defined contribution volunteer firefighter relief associations while avoiding any threat to the actuarial condition of the relief association or the allocation of benefits within the relief association.

2. Need for a Clarification of the Timing of Interest Return Crediting. The policy issue is the need for a clarification in the manner in which a defined contribution volunteer firefighter relief association recognizes and credits investment performance to active member accounts and deferred service

pension accounts. The 1979 volunteer firefighter relief association recodification specifically authorized the existing “split-the-pie” volunteer firefighter relief associations and future defined contribution volunteer firefighter relief associations, but the defined contribution volunteer firefighter relief association provision, Minnesota Statutes, Section 424A.02, Subdivision 7, did not regulate the totality of defined contribution retirement plan operations and practices. Defined contribution volunteer firefighter relief associations existed before 1979, with an active membership range of a low of 14 active members (Milroy) and a high of 42 active members (Hopkins) and an average number of active members of 25, an average asset size of $28,886, an average annual fire state aid amount of $2,848, a frequency of municipal contributions of 40 percent, and an average annual municipal contribution of $431. In 2002, defined contribution volunteer firefighter relief associations have grown in number, to 88, with an active membership range of a low of 10 active members (Crane Lake and Ellsburg) and a high of 98 active members (Eagan) and an average number of active members of 25, an average asset size of $493,547, an average annual fire state aid amount of $29,990, a frequency of municipal contributions of 52.3 percent, and an average annual municipal contribution of $7,377. Some growth in defined contribution volunteer firefighter relief associations has been from new relief associations, such as the Gunflint Trail Volunteer Firefighter Relief Association and the Vermilion Lake Volunteer Firefighter Relief Association, but the growth in defined contribution volunteer firefighter relief associations also has come from relief associations that did so in order to exceed the uppermost limit of the service pension maximums, such as the Anoka-Champlin Volunteer Firefighter Relief Association and the Eagan Volunteer Firefighter Relief Association. With the growth of defined contribution volunteer firefighter relief associations, their funding and assets, and their active membership, the operation of these plans has become more complicated in investing and in crediting investment returns. The proposed change would allow defined contribution volunteer firefighter relief associations to establish specific dates for and procedures for crediting investment performance and would require deferred retirees to recognize those dates. Thus, if a defined contribution volunteer firefighter relief association only credits investment performance as of the first of each month, a retiring deferred service pensioner would sacrifice a portion of a month’s investment performance if the person desires to receive the service pension payment on their birthday mid-month.

A bill for an act

relating to retirement; defined contribution volunteer firefighter relief associations; clarifying the crediting of investment return for deferred service pensions; amending Minnesota Statutes 2004, section 424A.02, subdivisions 4 and 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 4, is amended to read:

Subd. 4. **DEFINED CONTRIBUTION LUMP SUM SERVICE PENSIONS.** (a) If the bylaws governing the relief association so provide exclusively, the relief association may pay a defined contribution 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 ~~shall~~ must be established. To each individual active member account ~~shall~~ must be credited ~~a right to~~ an equal share of: ~~(a)~~ (1) any amounts of fire state aid received by the relief association; ~~(b)~~ (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 ~~(c)~~ (3) any amounts equal to the share of the assets of the special fund to the credit of: ~~(1)~~ (i) any former member who terminated active service with the fire department to which the relief association is associated ~~prior to~~ 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 ~~(2)~~ (ii) any retired member who retired ~~prior to~~ before obtaining a full nonforfeitable interest in the amounts credited to the individual member account ~~pursuant to~~ under subdivision 2 and any applicable provision of the bylaws of the relief association. In addition, any ~~interest or~~ investment ~~income earned~~ return on the assets of the special fund ~~shall~~ 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 credit to the special fund.

(c) At the time of retirement ~~pursuant to~~ under subdivision 1 and any applicable provision of the bylaws of the relief association, a retiring member ~~shall be~~ 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 ~~pursuant to~~ 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.

Sec. 2. Minnesota Statutes 2004, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **DEFERRED SERVICE PENSIONS.** (a) A member of a relief association ~~to which this section applies~~ 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 starts 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 under 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 the interest rate of five percent, compounded annually; 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.

(d) 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 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.

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

~~(e)~~ (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.

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

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective on July 1, 2005.

TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director

RE: Document LCPR04-284; Volunteer Firefighter Relief Association Board of Trustee Municipal Representation

DATE: October 28, 2004

<u>Summary of Document LCPR04-284</u>

Document LCPR04-284 amends Minnesota Statutes, Section 424A.04, Subdivision 1, the provision governing the membership of volunteer firefighter relief association boards of trustees, to make the municipal representation on the board more flexible by replacing ex officio members with elected or appointed municipal officers appointed by the municipal council to reduce the municipal representation on relief association boards of trustees associated with an independent nonprofit firefighting corporation from three board members to two board members, and to clarify the municipal representation for joint powers entities and townships.

<u>Potential Policy Issues</u>

Document LCPR04-284 revises the selection procedures for the municipal representation on volunteer firefighter relief association boards of trustees to allow for city council-appointed municipal representatives, reduces the municipal representation on relief association boards of trustees associated with independent nonprofit firefighting corporations, and specifically provides for the selection of municipal representation from joint powers entities and townships.

If the working group favors the changes contained in Document LCPR04-284 as part of its eventual recommendation, the potential policy issues that the Commission staff would likely raise for the Legislative Commission on Pensions and Retirement would be the following:

1. <u>Appropriateness of the Shift From Ex Officio Municipal Representation to City Council-Appointed Municipal Representation</u>. The policy issue is the appropriateness of shifting from ex officio municipal representatives on volunteer firefighter relief association boards of trustees to elected or appointed municipal officials appointed by the municipal governing board. Currently, there are three municipal representatives on most volunteer firefighter relief association boards of trustees, the mayor, the finance director/city clerk, and the fire chief. The change would replace the mayor and the finance director/city clerk with two elected or appointed officials of the municipality who are appointed by the city council. The change is intended to provide greater flexibility to municipalities and to improve interest and participation in relief association affairs by municipal representatives. Although the municipal representation on volunteer firefighter relief association boards of trustees has remained unchanged since 1907, when first regulated by State law, the process appears to have problems. As municipal mayors have become busier in official duties and volunteer firefighter relief association laws become less problematic by virtue of significant increases in fire state aid, participation by mayors and city finance directors apparently has become more sporadic. The proposal would utilize the same process that municipalities currently employ to fill positions on municipal advisory and regulatory commissions, with city council appointment of representatives to the volunteer firefighter relief association board of trustees. The representatives are required to be municipal officials, either elected or appointed.

2. <u>Appropriateness of One-Year Terms for Municipal Representatives on Volunteer Firefighter Relief Association Boards of Trustees</u>. The policy issue is the appropriateness of limiting the term of the municipal representatives on a volunteer firefighter relief association board of trustees to one year. Currently, the term of office of the ex officio municipal representative on the volunteer firefighter relief association board of trustees is the term of office of the mayor or the duration in office of the municipal finance director or the city clerk. The change in the term could result in a musical chairs situation on the municipal representative portion of the volunteer firefighter relief association board of trustees. Since the municipality is less well represented quantitatively than the volunteer firefighter relief association active membership, any further impairment of city representation by having those representatives constantly changing may leave the city with no effective representation.

3. Appropriateness of a Reduction in the Municipal Representation for Volunteer Firefighter Relief Associations Associated With Nonprofit Firefighting Corporations. The policy issue is the appropriateness of a proposed reduction in municipal representatives from three to two on the board of trustees of volunteer firefighter relief associations associated with independent nonprofit firefighting corporations. The current municipal representation for independent nonprofit firefighting corporation volunteer firefighter relief associations was incorporated into the volunteer firefighter relief association recodification in 1979 and did not have any earlier rendition. If the change for independent nonprofit firefighting corporations, paralleling the proposed procedure for municipalities, results in a volunteer firefighter relief association board that has a full complement of interested and competent members, the change is valuable. If the reduction in municipal representation results in some municipalities becoming unrepresented, the change may harm overall firefighting-related operations in local government.

4. Appropriateness of Proposed Joint Powers Entity and Township Representation on Volunteer Firefighter Relief Associations. The policy issue is the appropriateness of the extension of the municipal representation procedures to joint powers entities and townships. In 2000, Minnesota Statutes, Section 424A.04, Subdivision 1, was amended to add a procedure for county board appointment of municipal representatives from the fire department service area if the volunteer firefighter relief association was not associated with a city or an independent nonprofit firefighting corporation. Presumably, that 2000 procedure should have covered volunteer firefighter relief associations associated with townships and volunteer firefighter relief associations associated with joint powers entities. Little or no information has been assembled on the actual practice since 2000 with respect to townships and joint powers entities.

A bill for an act

relating to retirement; volunteer firefighter relief associations; modifying board of trustee membership requirements; amending Minnesota Statutes 2004, section 424A.04, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 424A.04, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** (a) ~~Every~~ A relief association that is directly associated with a municipal fire department ~~shall~~ must be managed by a board of trustees consisting of nine members. Six trustees ~~shall~~ must be elected from the membership of the relief association and three trustees ~~shall~~ must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three ~~ex officio~~ municipal trustees ~~shall be the mayor, the clerk, clerk-treasurer or finance director,~~ must be two elected or appointed municipal officials who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.

(b) ~~Every~~ A relief association that is a subsidiary of an independent nonprofit firefighting corporation ~~shall~~ must be managed by a board of trustees consisting of ~~ten~~ nine members. Six trustees ~~shall~~ must be elected from the membership of the relief association, ~~three~~ two trustees ~~shall~~ must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee shall be the fire chief serving with the independent nonprofit firefighting corporation. The bylaws of a relief association may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The ~~three ex officio~~ two municipal trustees who are the elected officials ~~shall~~ must be elected or appointed municipal officials, selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the ~~ex officio~~ municipal trustees ~~shall~~ must be ~~three elected~~ two officials of the contracting municipality who are designated annually by the governing body of the municipality;

~~(2) if two municipalities contract with the independent nonprofit firefighting corporation, the ex officio trustees shall be two elected officials of the largest municipality in population and one elected official of the next largest municipality in population who are designated by the governing bodies of the applicable municipalities;~~ or

~~(3)~~ (2) if ~~three~~ two or more municipalities contract with the independent nonprofit corporation, the ~~ex officio~~ municipal trustees ~~shall~~ must be ~~one elected~~ an official of each of the ~~three~~ two largest municipalities in population who are designated annually by the governing bodies of the applicable municipalities.

(c) The municipal trustees for a relief association that is directly associated with a fire department operated as or by a joint powers entity must be designated annually by the joint powers board. The municipal trustees for a relief association that is directly associated with a fire department service a township must be designated by the township board.

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

(e) The term of these appointed ~~ex officio~~ municipal board members is ~~three years~~ one year or until the person's successor is qualified, whichever is later.

~~(d) An ex officio~~ (f) A municipal trustee under paragraph (a), (b), ~~or~~ (c), or (d) shall have all the rights and duties accorded to any other trustee except the right to be an officer of the relief association board of trustees.

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

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on July 1, 2005.

# Volunteer Fire Relief Association Working Group

State Auditor's Office
Monday, December 6, 2004
11 a.m. to 1 p.m.

**Members Present**
Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnomen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, Minnesota State Fire Chief Association Representative Nyle Zikmund (defined benefit monthly plans), Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), Northfield Fire Relief Association Secretary Tom Nelson, State Auditor Patricia Anderson and White Bear Lake Finance Manager Don Rambow.

**Others Present**
Brooklyn Park Fire Relief Association Secretary Andy Hansen, Minneapolis StarTribune Reporter Mark Brunswick, Deputy State Auditor/General Counsel Carla Heyl, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen, Eric Bulygo, Jami Crummy, Brian Martenson and Paul Rosen.

**Welcome and Introductions**
Rotating Chair Jim Hansen welcomed the Working Group members and asked that they introduce themselves to the audience.

**November 22, 2004 Draft Minutes**
Nyle Zikmund moved to approve the November 22, 2004 draft minutes. The motion, which was seconded by Anne Finn, passed unanimously.

**Trustee Training Discussion**
Hansen explained that the focus of the meeting would be trustee training. He said he believes the goal should be to educate as many trustees as possible. In his view, it is possible to do a better job by addressing trustee turnover and time availability to attend meetings and receive training. Some trustees are only available to meet during the day while others can meet only at night or not at all, he said.

At Hansen's request, Larry Martin gave a brief overview of Minn. Stat. § 356A.13 that establishes the continuing education criteria for trustees. He said the law was enacted in 1989 to address a number of issues related to the paid fire and police plans and the Public Employees Retirement Association (PERA) that had occurred in the mid-1980s.

The manner in which these trustees were exercising their duties served as a catalyst for the state legislature to create the Public Pension Fiduciary Law under Chapter 356A. The law is not a detailed piece of work, according to Martin, because the lawmakers were uncertain how to come up with requirements that would apply to both small volunteer fire pension plans and large public pension plans. In the end, they went in the direction of the small plans by allowing them to determine what would be an appropriate level of continuing education. For this reason, he said there is no requirement that proof of participation be filed with the State Auditor's Office or mandate on how complete the continuing education plans must be.

Hansen said the framework of the Working Group discussion should be to set the direction for trustee training. He said some Working Group members have attended training offered through MSFDA and MARAC and now a combination of these groups has formed to provide further training.

Dave Ganfield said the State Auditor's Office offers classes at the annual MSFDA conference in addition to other classes on investments and new trustees. He agreed that the biggest issue is trustee turnover saying some new treasurers get a box of records and don't know what to do. He recalled that the State Auditor's Office held annual training conferences years ago but now only MARAC tries to hold a conference.

Auditor Anderson said the State Auditor's Office would soon be providing a financial package to relief association trustees to assist them in their efforts. The package is called FRPAS (Fire Relief Pension Accounting System) and is modeled after a program presently used by about 1200 cities and towns. She said it would be distributed this spring at no charge to defined benefit lump sum plans. Someone must learn how to enter transactions throughout the year but this will greatly ease the preparation of forms at the end of the year and hopefully improve the timeliness of submissions. She said she would like to work jointly with the Working Group and League of Minnesota Cities on this training initiative. Another resource will be city clerks many of whom use a similar package.

In response to a question from Zikmund about funding for training initiatives, Auditor Anderson said CTAS training is free and clerks are invited to attend training sessions at the State Auditor's Office. She said costs are absorbed by her office or in some cases they are recouped if there is a charge.

Dave Jaeger said he was asked many years ago to put together a training session on reporting forms for presentation at technical colleges in northern Minnesota. Despite his efforts, he said some relief association representatives did not come to the sessions even though it was provided at a convenient location.

Zikmund said forms completion improved when the State Auditor's Office began providing automated forms. Auditor Anderson said she hopes FRPAS will make form completion even better.

Anne Finn asked who specifically needs training. Jaeger said everyone. He said small town administrators do not seem to be familiar with relief association issues and they hold positions on those boards.

Zikmund said the three main training areas for the 5,000 to 6,000 trustees in Minnesota are: bylaws, administration and investments. Although he thinks it would be impossible to train all of the trustees, it is a policy question whether to mandate training and who should provide it.

He said the Statewide Pension Plan Study is the real reform but the training coalition did train 17 groups last year at $600 each and have three set up for this year. Trustees may resist mandatory training but without it there may be lower investment returns and higher legal fees, he said.

Ganfield said his relief association sends one to two representatives to training and they report back to the full board.

Jaeger said city administrators should learn what the Schedules mean and how to verify financial information when it is presented to their attention for budget levy purposes.

Hansen said Finn's presence on the Working Group is important in this regard.

Zikmund said the League could open up dialogue between relief associations and cities because some relief associations don't want to discuss anything with their city. He suggested that it is important to offer face-to-face training on bylaws and investments.

Auditor Anderson agreed that most issues involve bylaw provisions. For this reason, the State Auditor's Office encourages trustees with bylaw questions to call the Pension Division that is familiar with the bylaws of the state's 700-plus relief associations. Sample bylaws for small relief associations are being prepared for placement on the State Auditor's website with optional provisions for larger plans to be added over time.

Ganfield said city clerks, treasurers and mayors need to learn more. Acknowledging that some progress has been made in the past few years, he concurred that the goal should be to get communication going between relief association representatives and city officials. Finn said the League intends to conduct regional training on relief association issues.

Zikmund sought to know what steps must be taken to get cities involved.

Don Rambow said cities should stay involved because what's in the relief association's bylaws will affect the city. While he said he hoped that most relief associations work with professional managers and CPAs, it is rare that the treasurer is also a financial person. Part of the job of being a city official is to go to meetings, he said, and it's up to the city official to absorb the information or be there. He expressed concern that communication is a local concern that should not necessarily have to be fixed by the state.

Phil Kern said it comes down to education and recognition of the financial relationship between the relief association and city.

Ed Dietz said relief associations should do their part in fostering a relationship with their cities. We need to know about the budget timing and process and work to reduce any friction between relief associations and cities, he said.

Kern said this issue was briefly discussed a few weeks ago when the Working Group members reviewed the statutory requirements for board composition. Curt Roberts asked whether ex-officio trustees need training.

Hansen said the goal would be that when you go to certain city representatives that they be educated on the issues.

Martin explained the board composition requirements under current law noting that the Working Group is proposing a law change. Auditor Anderson said that she had received no formal training when she was a mayor working with a volunteer fire relief association.

Roberts asked if she would have gone to training. Auditor Anderson said she would have gone to League training if offered at the annual training conference. Finn said training possibly could be offered.

Ganfield asked Rambow if he is notified of and attends relief association meetings. Rambow said he is aware of the meetings and goes to some depending on the agenda topics. Some mayors aren't always able to attend.

Auditor Anderson said instead of just having the Mayor on the board automatically each year, someone should be appointed to the trustee position. The appointee would take ownership of the position and would attend meetings, she said.

Jaeger said city representatives don't think they need to go to quarterly meetings thinking there's not much to discuss. Because cities need to attend meetings to learn about pension payments and calculations, relief associations can make a mistake, he said.

Martin said the League has credibility in training. In the 1970s the League had sample relief association bylaws and conducted training although he is not sure where things are at today. Minnesota and Oregon are the only states that use non-profit corporations for government functions. If non-profit corporations were not employed, there would be a cleaner line of responsibility for the cities and relief associations.

Rambow motioned to break for lunch.

Hansen said the Working Group needs to narrow in on who needs to deliver training, how it should be delivered and if legislation is needed.

Rambow said White Bear Lake meets monthly so there needs to be something of value on meeting agenda to get city representatives to attend. It was determined that the open meeting law applies to relief association meetings, following an inquiry from Finn.

Auditor Anderson recommended changing the Mayoral requirement to have someone appointed by the Mayor. Dietz said training could be on how to run a good meeting.

Ganfield provided each Working Group member with a copy of Apple Valley's 2003 Annual Report. He said it contains information about the Special Fund and General Fund finances, investment policy, audit summary and bylaws so members can see that things are being done right. He expressed interest in coming up with more best practices suggestions in the next year or two.

Hansen concluded that the Working Group is on the right track to get board members trained. He said there is a new training coalition to get the message out and invited the State Auditor's Office to participate.

Zikmund said he would like the State Auditor's Office to consider sponsoring an annual training conference like it used to do many years ago.

Carla Heyl said the League has good contacts for a conference but the trustees who would attend could be those who already know what they are doing. Zikmund said the training coalition and various fire groups would be willing to help.

Auditor Anderson said the State Auditor's Office could do a session at the League's annual conference and expressed willingness to consider the suggestions.

Hansen summarized the key training deliverables as: finances, bylaws, administration and investments. He then moved to the review of previous consensus items on the agenda.

**MFIRS Reporting Requirement for State Fire Aid**
Martin asked if the consensus of the Working Group was captured correctly in the memo.

Ganfield said he had not attended the meeting when the MFIRS requirement was discussed and hadn't seen a motion in the minutes to request the drafting. It was stated that the Working Group had only recently begun making formal motions regarding draft language requests to Martin.

Ganfield asked if the requirement would apply to all fire relief associations including Minneapolis Fire Relief Association (MFRA). Martin replied that the fire state aid requirement would affect eligibility for state fire aid and therefore would apply to all fire relief associations.

Ganfield expressed concern that the language would affect groups not represented by the Working Group. Zikmund said the idea had been unanimously received at the meeting. He said he would like to drop self-reporting in lieu of MFIRS because it's not necessarily what is popular but what is needed to be proactive to protect state aid.

Ganfield agreed that MFIRS is more progressive but said there is a need to clean up the language eliminating reporting. He said he has been contacted by groups that do not agree with the draft.

Martin said would clarify that the Working Group's intent is to replace self-reporting with MFIRS. Ganfield asked whether a relief association that starts reporting during year would lose state aid. Zikmund said an effective date of 2006 would provide a relief association with sufficient notice. Finn said she would discuss with MFRA and others before next week. It was decided to table until next week.

**Trigger Date for Filing Financial Reports**
Hansen asked Martin if a relief association must have a full audit done even if it drops below $200,000 after exceeding that threshold in any previous year. Martin confirmed that that was the consensus of the Working Group with a year's advance notice. The draft language was moved by Zikmund, with a second by Rambow, and approved without dissent.

**Revised Financial Requirements for Monthly Plans**
Martin said the revised financial requirements apply to a relatively small number of volunteer fire plans. The draft language resets the minimum funding requirement per firefighter because the statutory table was more conservative than it had to be, he added

Zikmund moved the draft language that splits the difference between the current and necessary financing.

In response to a question from Kern, it was stated that the language affects monthly or monthly lump sum combination plans of which there are only a few in greater Minnesota.

**Military Leaves of Absence**
Ganfield inquired whether the Working Group had formally asked Martin to draft language authorizing military leaves of absence. Jaeger moved, with a second from Zikmund, that Martin provide draft language at a future meeting. Martin said he can model the language after legislation that was adopted last session in regard to USSERA for some of the large public pension plans.

**Next Meeting**
Zikmund asked the members to clear their afternoon schedules on Monday, December 13, 2004 should more time be needed for the next Working Group meeting.

Rambow will chair the meeting that will begin at 11 a.m. and be held in the State Auditor's Conference Room. Member suggestions for the agenda must be forwarded to the Pension Division by Tuesday, December 7, 2004.

A motion to adjourn the meeting at 1 p.m. was made by Finn and seconded by Dietz. It passed without dissent.