

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor
Wednesday, November 6, 2013
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Introductions**
- III. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft January 15, 2013 Meeting Minutes
- IV. Working Group Process Discussion**
Exhibits B through E.
 - Working Group Meeting Schedule
 - Working Group Purpose Statement
 - Working Group Process
 - Working Group Membership List
- V. Discussion of Working Group Topic Suggestions**
Exhibit F.
- VI. Review of Draft Language for Technical Changes**
Exhibit G.
- VII. Other Business**
- VIII. Next Meeting**
Wednesday, November 20, 2013
11 a.m. to 1 p.m.
Office of the State Auditor
- IX. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by November 4, 2013.

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Tuesday, January 15, 2013

11 a.m. to 1 p.m.

Members Present

Steve Donney, City of Harmony Mayor

Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)

Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)

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

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

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

Rebecca Otto, State Auditor

Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)

Mark Rosenblum, Minnesota State Fire Department Association Representative (defined benefit lump sum plans)

Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Larry Martin, Legislative Commission on Pensions and Retirement Director

Tim Simon, Elk River City Finance Director

Others Present

Bill Braun, Woodbury Fire Relief Association Representative

Mary Chamberlain, Abdo, Eick & Meyers Representative

Aaron Dahl, Office of the State Auditor Pension Analyst

Celeste Grant, Deputy State Auditor/General Counsel

Rose Hennessy Allen, Office of the State Auditor Pension Director

Jim Jensen, Office of the State Auditor Pension Analyst

Michael Johnson, Office of the State Auditor Pension Analyst

Samantha Lee, Office of the State Auditor Pension Intern

Brian McKnight, Wells Fargo Advisors Representative

The following motions were duly made, seconded and approved:

RESOLVED to approve the December 18, 2012, Working Group Meeting Minutes; and

RESOLVED to approve the Working Group legislation as amended to include the agreed-upon effective dates and defined-benefit deferred service pension changes.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the December 18, 2012, meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Jaeger seconded the motion that was adopted unanimously.

III. Review of Working Group Legislation

The Working Group members reviewed and discussed each section of the draft legislation. The members discussed the defined-benefit deferred service pension changes in Section 8. The Group agreed that the phrase “board of directors” in paragraph (c)(3) should be changed to “board of trustees.” The Group also agreed that the language in paragraph (d) needed to be revised slightly to make clear that deferred interest rates set by a relief association’s board of trustees become effective on the January 1 following the date that the rates have been established by the board and approved by the municipality or independent nonprofit firefighting corporation.

The Group discussed the supplemental survivor benefit changes. Auditor Otto provided the members with information on the number of potential supplemental survivor benefits paid during the last several years and the maximum total reimbursement amounts.

The members discussed effective dates for each section. It was agreed that all sections should be effective the day following final enactment, except for certain provisions within Section 8 (the defined-benefit deferred service pension section). The Group agreed that Section 8, subdivision 7, paragraph (c), clause (3), paragraph (d), and paragraph (e), should be effective on January 1, 2014. These provisions clarify when interest rates set by a relief association’s board of trustees become effective and clarify that municipal or independent nonprofit firefighting corporation ratification of any interest rate changes is required. The delayed effective date will give the Office of the State Auditor time to provide relief associations with education on the changes and will give boards of trustees time to make changes to the association’s bylaws, if necessary.

The Group also agreed that the corrections made to Section 8, subdivision 7, paragraph (f), clause (1), should be effective retroactively from January 1, 2013. This provision defines the default calculation method, if a method is not defined in a relief association’s bylaws, for deferred interest rates set by a relief association’s board of trustees or for investment performance on a separate investment vehicle. The changes correct a drafting mistake that occurred last year when the Working Group bill was assembled, and bring the language in-line with what the Group adopted last year. The retroactive effective date is being sought for the correction.

Zikmund made a motion to approve the Working Group legislation as amended to include the agreed-upon effective dates and defined-benefit deferred service pension changes. Rosenblum seconded the motion and it was adopted unanimously.

IV. Update on IRS Tax-Exempt and Filing Issues

Auditor Otto shared that the Office of the State Auditor conducted an informal survey during December of relief association trustees, municipal officials, and consultants. The survey asked questions about IRS tax-exempt and 990 filing issues. She shared with the Group a summary of the survey results and respondent comments. Zikmund provided an update on work being done by a coalition of fire service organizations to help resolve these IRS filing issues. The coalition is offering response packets to relief associations for purchase which contain the necessary forms and templates for applying for a tax-exemption or for reinstatement of an exemption. After all relief associations have obtained a tax-exemption and are in good standing with the IRS, the coalition hopes to work on federal changes to eliminate 990 filing requirements for relief associations.

V. Update on Shared Services Report

Roed, in his capacity as a Fire Service Specialist with the State Fire Marshal's Office, provided the Group with information about the Shared Services project that began in 2010. He discussed the grants given to communities to study or implement ways to share services more efficiently.

VI. Discussion of Fiduciary Duties and Responsibilities

The Working Group members began discussing fiduciary duties and responsibilities. The members reviewed the applicable state statutes and discussed continuing education requirements. The Group agreed that discussions on this topic should be continued when the Working Group reconvenes in the fall.

VII. Other Business

Auditor Otto thanked the members for their participation on the Working Group and assured everyone that the Office of the State Auditor would keep them updated on the progress of the Group's bill.

VIII. Adjournment

The meeting was adjourned shortly after 1:00.

Exhibit B
Working Group Meeting Schedule

Wednesday, November 6, 2013

Wednesday, November 20, 2013

Thursday, December 5, 2013

Wednesday, December 18, 2013

Date to be determined during January 2014

State Auditor Rebecca Otto, Chair
Office of the State Auditor Conference Room
11:00 a.m. to 1:00 p.m.

Exhibit C
Working Group Purpose Statement

To identify and work through current and pressing relief association issues. We will do this by bringing together the major volunteer fire relief association stakeholders to develop relationships, facilitate communication, discuss relief association issues and make the Pension Process easier and more effective. The ultimate goal is to help volunteer fire relief association plans be successful.

Exhibit D

Working Group Process

- Identify and discuss topics and make recommendations to clarify state laws,*
- Forward suggested statutory changes to the Legislative Commission on Pensions and Retirement, and
- Identify ways to simplify reporting forms, identify training needs and other issues.

*Unanimous consent is required for all proposals to move forward, although proposals that receive only one dissenting vote may be revisited and reconsidered.

Exhibit E
Working Group Membership List
2013/2014

- 1. City Finance Manager**
Dennis Feller, Finance Director
City of Lakeville
20195 Holyoke Avenue
Lakeville, MN 55044
Phone: (952) 985-4481
Fax: (952) 985-4499
dfeller@lakevillemn.gov
- 2. Defined Contribution Plans**
Aaron Johnston, Treasurer
Coon Rapids Fire Relief Association
2831 – 113th Avenue NW
Coon Rapids, MN 55433
Phone: (763) 767-6429
ajohnston@coonrapidsmn.gov
- 3. Defined Benefit Lump Sum Plans**
Bruce Duncan, President
Excelsior Fire Relief Association
24100 Smithtown Road
Shorewood, MN 55331
Phone: (651) 539-1624
Fax: (952) 960-1690
bruce.duncan@state.mn.us
- 4. Legislative Commission on Pensions & Retirement**
Lawrence A. Martin, Director
55 State Office Building
Saint Paul, MN 55155
Phone: (651) 296-2750
Fax: (651) 297-3697
lisa.dieslin@lcpr.leg.mn

- 5. Defined Benefit Lump Sum Plans**
Bruce Hemstad, Secretary
Bemidji Fire Relief Association
318 – 5th Street N.W.
Bemidji, MN 56601
Phone: (218) 766-0014
bruce.hemstad@gmail.com
- 6. Minnesota State Fire Chiefs Association/Monthly Plans**
Nyle Zikmund, Chief
Spring Lake Park, Blaine & Mounds View Fire Department
1710 County Highway 10 NE
Spring Lake Park, MN 55432
Phone: (763) 786-4436
nzikmund@sbfmfire.com
- 7. Defined Benefit Monthly/Lump Sum Combination Plans**
Dave Ganfield, Administrator
Apple Valley Fire Relief Association
7100 – 147th Street West
Apple Valley, MN 55124
Phone: (612) 598-6369
dganfield@hotmail.com
- 8. Minnesota State Fire Department Association**
Mark Rosenblum, Member
Golden Valley Fire Relief Association
6325 Olympia Street
Golden Valley, MN 55427
(612) 597-2096
valleyfire25@yahoo.com
- 9. City Official**
Steve Donney, Mayor
City of Harmony
PO Box 175
Harmony, MN 55939
Phone: (507) 951-4320

stdonney2002@yahoo.com

10. Defined Benefit Lump Sum Plans

Dave Jaeger, Treasurer
Mahnomen Fire Relief Association
116 SW Roosevelt Street
Mahnomen, MN 56557
Phone: (218) 935-5668
Fax: (218) 935-2574
jaegerd68@gmail.com

11. Defined Contribution Plans

Bruce Roed, Trustee
Mentor Fire Relief Association
14945 Maple Inn Road S.E.
Mentor, MN 56736
(320) 333-2817
bruce.roed@state.mn.us

12. State Auditor Rebecca Otto

Suite 500
525 Park Street
Saint Paul, MN 55103
Phone: (651) 296-2551
Fax: (651) 282-5298
state.auditor@osa.state.mn.us

Volunteer Fire Relief Association Working Group

2013/2014 Potential Topic List

<u>Topic</u>	<u>Description</u>
Defined Contribution Plans (424A.016)	1. Clarify whether defined contribution plan inactive members and members who have separated before becoming vested are eligible for ancillary benefits.
Fiduciary Duties and Responsibilities (356A.13)	2. Discuss continuing education requirement and ways that relief association trustees can obtain education.
Investments (356A.06, subd. 7(e))	3. Discuss increasing the five-percent junk bond limitation.
Municipal Contributions (424A.092 and 424A.093)	4. Discuss allowing relief associations to return municipal contribution amounts that have been revised after review by the OSA, or allow the revised amounts to count as a pre-payment toward the next required contribution amount.
Municipal Ratification Requirements (424A.001, subd. 3 and 424A.02, subd. 10)	5. Review municipal approval requirements for relief associations affiliated with an independent nonprofit firefighting corporation. Based on the definition of "municipality" in 424A, it appears that each contracting municipality would be required to approve a bylaw change. Also, deferred interest rates established by the board must be approved by the "municipality." Perhaps change the definition of municipality to include independent nonprofit firefighting corporations. Some precedent - tort limits.
Revenue Recapture (270A.03, subd. 2)	6. Discuss adding relief associations as a "claimant agency" under the Revenue Recapture Act (Chapter 270A). http://taxes.state.mn.us/individ/pages/other_supporting_content_revrecap_it.aspx http://taxes.state.mn.us/collection/pages/other_supporting_content_revrecapture.aspx
Return to Service (424A.01, subd. 6)	7. Clarify for defined contribution plans how long accounts need to be kept intact for members who return to service and don't meet the minimum period of resumption service requirement (i.e., can the second account be forfeited immediately, or after five years).
	8. Clarify how installment payments should be handled for members who return to service and membership.
	9. Discuss allowing members who return to service to keep any interest that had been accrued during their period of deferral.
	10. Review 424A.016, subd. 4(d) and determine if a change is needed to avoid a possible conflict with the return to service law.
Service Credit	11. Clarify that all pensions and benefits must be calculated at the rate in effect on the date of a member's separation from active service and membership. Consider including a specific formula for calculating a service pension.
	12. Discuss ways to make portability between or among relief associations easier.

	13.	Discuss creating a tiered pension system so that those members who respond to fewer calls and complete fewer trainings receive a lesser pension amount.
Supplemental Benefits (424A.10)	14.	Discuss defining the term "regular service pension" to make clear that supplemental benefits should not be based on any interest earned during a member's period of deferral.
Technical Changes	1.	Update 69.051, subd. 3 so that municipalities with a fire department whose firefighters are covered by the PERA Police and Fire Plan are exempt from filing the report with the OSA.
	2.	Clarify that any international investments which are not considered developed are emerging market.
	3.	Delete the word "qualified" from the phrase "qualified municipality" in 424A.08 and 424A.02, subd. 3.
	4.	Clarify that all below-investment-grade bonds are subject to the five-percent portfolio limitation.
	5.	Correct the citation in the last line of 356A.06, subd. 7a.
	6.	Review the definition of municipality in 424A.001 and consider whether it should include joint-powers entities. Review how the definition fits with the Restricted Fire Funds, which are municipalities without an affiliated relief association.

Exhibit G Technical Changes

Technical Change #1:

69.051 FINANCIAL REPORT, BOND, EXAMINATION

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Subd. 3. Report by certain municipalities.

(a) The chief administrative officer of each municipality which has an organized fire department but which does not have a firefighters' relief association governed by section 69.77 or sections 424A.091 to 424A.095 and which is not exempted under paragraphs (b) or (c) shall annually prepare a detailed financial report of the receipts and disbursements by the municipality for fire protection service during the preceding calendar year on a form prescribed by the state auditor. The financial report must contain any information which the state auditor deems necessary to disclose the sources of receipts and the purpose of disbursements for fire protection service. The financial report must be signed by the municipal clerk or clerk-treasurer of the municipality. The financial report must be filed by the municipal clerk or clerk-treasurer with the state auditor on or before July 1 annually. The municipality does not qualify initially to receive, and is not entitled subsequently to retain, state aid under this chapter if the financial reporting requirement or the applicable requirements of this chapter or any other statute or special law have not been complied with or are not fulfilled.

(b) Each municipality that has an organized fire department and provides retirement coverage to its firefighters through the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G qualifies to have fire state aid transmitted to and retained in the statewide lump-sum volunteer firefighter retirement fund without filing a detailed financial report if the executive director of the Public Employees Retirement Association certifies compliance by the municipality with the requirements of sections 353G.04 and 353G.08, paragraph (e), and certifies conformity by the applicable fire chief with the requirements of section 353G.07.

(c) Each municipality which does not have a volunteer firefighters' relief association directly associated with its fire department, which does not participate in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan, qualifies to receive fire state aid under this chapter without filing a financial report.

Technical Change #2:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

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Subd. 7. Expanded list of authorized investment securities.

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(h) **Other investments.** (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), an expanded list plan is authorized to invest funds in:

(i) equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(iv) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made under clause (1), items (i), (ii), and (iii), may not exceed 35 percent of the market value of the fund for which the expanded list plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the expanded list plan for investments made under clause (1), item (i), (ii), or (iii);

(iii) the expanded list plan's participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii);

(iv) the expanded list plan's participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The expanded list plan may not engage in any activity as a limited partner which creates general liability; and

(v) for volunteer firefighter relief associations, ~~emerging~~ all non-developed market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

Technical Change #3:

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

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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 424A.092, subdivision 4, or 424A.093, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit 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 includes 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 424A.092, subdivision 2; 424A.093, subdivisions 2 and 4; or 424A.094, subdivision 2, if any.

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any ~~qualified~~-municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account may not be made for any purpose except:

(1) payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its firefighters to membership in and the benefits of these state associations;

(2) payment of the cost of purchasing and maintaining needed equipment for the fire department; and

(3) payment of the cost of construction, acquisition, repair, or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A ~~qualified~~-municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department, which does not participate in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

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Technical Change #4:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

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Subd. 7. Expanded list of authorized investment securities.

...

(h) **Other investments.** (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), an expanded list plan is authorized to invest funds in:

(i) equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(iv) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made under clause (1), items (i), (ii), and (iii), may not exceed 35 percent of the market value of the fund for which the expanded list plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the expanded list plan for investments made under clause (1), item (i), (ii), or (iii);

(iii) the expanded list plan's participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii);

(iv) the expanded list plan's participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The expanded list plan may not engage in any activity as a limited partner which creates general liability; ~~and~~

(v) the aggregate value of all unrated obligations and obligations that are not rated among the top four quality categories by a nationally recognized rating agency authorized by clause 1, item (iv) and paragraph (e) shall not exceed five percent of the covered plan's market value; and

(vi) for volunteer firefighter relief associations, emerging market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

Technical Change #5:
356A.06 INVESTMENTS; ADDITIONAL DUTIES.

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Subd. 7a. Restrictions.

Any agreement to lend securities must be concurrently collateralized with cash or securities with a market value of not less than 100 percent of the market value of the loaned securities at the time of the agreement. For a covered pension authorized to purchase put and call options and futures contracts under subdivision 7, any agreement for put and call options and futures contracts may only be entered into with a fully offsetting amount of cash or securities. Only securities authorized by this section, excluding those under subdivision 7, paragraph (~~gh~~), clause (1), items (i) to (iv), may be accepted as collateral or offsetting securities.