

# **Minnesota Volunteer Fire Relief Association**

## **Working Group Meeting**

Office of the State Auditor

Tuesday, December 16, 2008

11 a.m. to 1 p.m.

### **I. Call to Order**

*Chair Auditor Otto.*

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

Exhibit A. Draft December 4, 2008 Meeting Minutes

### **III. Discussion of Sub-Group Forwarded Suggestions**

Exhibit B.

- Authorized Administrative Expenses (B)

### **IV. Discussion of Working Group Topic Suggestions**

Exhibits C – G.

- Breaks in Service (C)
- Reporting Deadlines (D)
- Definition of Month of Service (E)
- Exchange Traded Fund Investments (F)
- Amortization Period (G)

### **V. Discussion of Technical Topic Suggestions**

Exhibit H. Draft Prepared by Larry Martin

### **VI. Other Business**

- Record Retention Requirements

### **VII. Next Meeting**

Tuesday, January 27, 2009

11 a.m. to 1 p.m.

Office of the State Auditor

### **VIII. Adjournment**

# **Volunteer Fire Relief Association Working Group**

Office of the State Auditor  
Thursday, December 4, 2008  
11 a.m. to 1 p.m.

## **Members Present**

Ed Dietz, Maplewood Fire Relief Association Treasurer (defined benefit lump sum plans)  
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)  
Jim Hansen, Minnesota Area Relief Association Coalition Representative  
Dave Jaeger, Mahnomen Fire Relief Association Treasurer (defined benefit lump sum plans)  
Larry Martin, Legislative Commission on Pensions and Retirement Director  
Rebecca Otto, State Auditor  
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)  
Tim Simon, Elk River City Finance Director  
Steven Wallner, Watertown City Finance Director

## **Members Excused**

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)  
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

## **Others Present**

Jim Adams, West Metro Fire Relief Association Secretary  
Colleen Bollom, Minnesota Firefighter Pension Consultants Representative  
Aaron Dahl, Pension Analyst  
Celeste Grant, Deputy State Auditor/General Counsel  
Rose Hennessy Allen, Pension Director  
Lucas Hinz, Pension Analyst  
Michael Johnson, Pension Analyst  
Mike Miller, Integra Shield Financial Group Representative  
Hue Nguyen, League of Minnesota Cities Representative

The following motions were duly made, seconded and approved:

- RESOLVED to approve the November 6, 2008 Working Group Meeting Minutes.
- RESOLVED to recommend no statutory changes regarding the payment of interest to deferred members of defined contribution plans.
- RESOLVED to allow volunteer firefighters to resume active service after retirement and a 60-day break in service, if provided in the bylaws, without repaying the previously received service pension.
- RESOLVED to allow survivor benefits of defined contribution and defined benefit lump sum plans to be paid to a trust, rather than just to a natural person.

**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 November 6, 2008 meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Wallner seconded the motion, which was adopted unanimously.

**III. Discussion of Sub-Group Forwarded Suggestions**

• Deferred Interest

The Working Group discussed whether defined contribution plans should be required to pay interest to deferred members. Adams provided insight to the Sub-Group's discussion on this topic and explained that paying interest at a flat five percent to deferred members means that active members share in greater losses when markets are down. Members were surprised by the number of relief associations that currently do not pay interest to deferred members. Ganfield made a motion to not make any statutory changes and to instead address this topic through education and bylaw changes. Dietz seconded the motion, which was adopted unanimously.

• Employment of Minors

Auditor Otto explained that under current law, minors are prohibited from serving in any capacity performing any duties with a volunteer fire department. The Group reviewed draft legislation that would provide a limited exception to the prohibition on employing minors for members of educational organizations such as a Boy Scout Explorer Program or students enrolled in a firefighting degree program while under constant adult supervision. The Working Group members decided to expand the exception to members of youth and civic organizations. The Group also decided to change the prohibition on employment to a prohibition on permitting minors to serve as a volunteer firefighter. This change allows for minors that are members of youth, civic, or educational programs to perform uncompensated service, as some youth groups hold fundraisers by washing fire trucks. Finally, the Group decided to reference Labor Law statutes so that minors are prohibited from performing hazardous duties. The Working Group members agreed on the concept and will review the final draft language.

• Authorized Administrative Expenses

The Group reviewed draft legislation that would allow special fund assets to be used for purchasing insurance from the Volunteer Firefighters Benefit Association, or comparable insurance company. A suggestion was made to split the draft language into two sections, one for association dues and one for insurance dues and assessments. The Group decided to table the topic until the next meeting so that Anderson has time to share his input and experience.

**IV. Discussion of Working Group Topic Suggestions**

• Return to Service

Auditor Otto explained that under current law there are penalties for volunteer firefighters who retire, are paid a service pension, and return to active service with the same volunteer fire department. In these situations, the volunteer firefighter must repay his or her service pension and is not eligible to accrue any additional service credit. The Working Group members agreed that the limitations on resuming active service are draconian and hamper fire departments, especially in Greater Minnesota, that have a difficult time recruiting new firefighters. Jaeger made a motion to allow volunteer firefighters to resume active service after retirement and a 60-day break in service, if allowed under the bylaws, without repaying the previously received service pension. The member could accrue additional service credit if allowed under the bylaws, and prior years of service could count for vesting purposes if allowed under the bylaws. Benefits for members of monthly plans that resume active service after retirement will be suspended until the member separates from active service. Dietz seconded the motion, which was adopted unanimously.

**V. Other Business**

• Authorization to Pay Pensions or Benefits to a Trust

Auditor Otto explained that under current law, designated beneficiaries must be natural persons. A suggestion was made at one of the Sub-Group meetings to allow survivor benefits to be paid to a trust, rather than just to a natural person. Adams explained that the proposal would be for lump sum benefits only. Allowing a survivor benefit to be paid directly to a trust, rather than going to an estate first, circumvents the need to go through Probate Court. Members of the Group expressed concerns about adding an item that could be controversial to the Working Group bill. Roed made a motion to draft legislation that would allow survivor benefits to be paid to a trust, with the understanding that the topic could be pulled from the bill at a later time if it proves problematic with the Pension Commission. Ganfield seconded the motion, with the addition that the authorization be for defined contribution and defined benefit lump sum plans only. The motion was adopted unanimously.

• Proposed January 13 Meeting Date

The final Working Group meeting date was tentatively set for January 13. At least two members of the Group are unavailable on that date. If any other members are unable to make the January 13 meeting date the Group decided to that it will reschedule the final meeting.

**VI. Next Meeting**

Tuesday, December 16, 2008

11 a.m. to 1 p.m.

Office of the State Auditor

**VII. Adjournment**

The meeting was adjourned shortly after 1:00.

## **Exhibit B**

### **Topic:**

Whether special fund assets should be allowed to be used to purchase insurance only from the Volunteer Firefighters Benefit Association, or also from a comparable insurance company licensed by the State of Minnesota.

### **Current Law:**

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

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

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

### **Optional Change:**

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

(6) for the payment of the fees, dues and assessments to the state Volunteer Firefighters Benefit Association, or comparable insurance company licensed by the State of Minnesota, in order to entitle relief association members to membership in and the benefits of the association or organization; and

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

## **Exhibit C**

### **Topic:**

Discuss service pension calculations for members with a break in service.

### **Issue:**

Many relief association members take a leave of absence or have a break in service during their tenure as a firefighter. Some relief associations have implemented bylaw provisions in an attempt to “protect” their association from members that repeatedly leave and rejoin, or rejoin for just a short period of time to take advantage of benefit increases that occurred during their absence. There are uniformity requirements under state law, so bylaw provisions that change the method of calculating pensions for members with a break in service are sometimes not allowed.

### **Current Law:**

#### **424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.**

Subdivision 1. **Authorization.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, if the bylaws or articles of incorporation of the relief association so provide. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69.

Subd. 6. **Payment of service pensions; nonassignability.** The method of calculating service pensions shall be applied uniformly for all years of active service and credit shall be given for all years of active service, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective fire department, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association. No service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits shall be subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may

assign any service pension or ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

### **Current Practice:**

1. Place no limitations on rejoining active service after a leave of absence or break in service.
2. Limit the length of time that a member can be inactive. Members are prohibited from resuming active service if the break in service exceeds the limit.
3. Require that members remain in active status for at least a certain length of time to be eligible for any benefit increases that occurred during the member's break in service.
4. Treat the member's period of service as two separate periods for pension purposes (i.e., the member's pension is split and calculated separately for each period of service). This practice is not currently authorized.

### **Optional Change:**

**Subd. 6. Payment of service pensions; nonassignability.** The method of calculating service pensions shall be applied uniformly for all years of active service and credit shall be given for all years of active service, except for caps on service credit if so provided in the bylaws.

## Exhibit D

**Topic:**

Review the reporting deadlines and reconsider the \$200,000 audit threshold.

**Current Law:**

Relief associations “with assets of at least \$200,000 or liabilities of at least \$200,000 in the prior year or in any previous year” are required to submit an audit report. (Minn. Stat. § 69.051, subd. 1.)

A city with a population of 2,500 or less and a combined clerk/treasurer must have an annual audit for 2007 if its annual revenue is greater than \$178,000. A city with a combined clerk/treasurer and annual revenue of \$178,000 or less must have an audit once every five years.

A city with a population over 2,500 must have an annual audit performed.

A town with a population over 2,500 and 2007 annual revenue greater than \$794,000 must have an annual audit.

A town with a combined clerk/treasurer must have an annual audit for 2007 if its annual revenue was greater than \$178,000. A town with annual revenue of \$178,000 or less must have an audit once every five years.

**Current Practice:**

Number of relief associations with and without the audit requirement for the past three years.

Year	Number Under \$200,000	Number Over \$200,000
2007	256	461
2006	287	428
2005	322	392

Summary of form submission trends for the 2007 Reporting Year.

Plans Under \$200,000		Plans Over \$200,000	
Days Early/Late	Percent of Plans	Days Early/Late	Percent of Plans
At Least 30 Days Early	1%	At Least 30 Days Early	5%
0 to 30 Days Early	18%	0 to 30 Days Early	40%
1 to 30 Days Late	26%	1 to 30 Days Late	23%
31 to 60 Days Late	17%	31 to 60 Days Late	11%
61 to 90 Days Late	8%	61 to 90 Days Late	5%
At Least 91 Days Late	30%	At Least 91 Days Late	16%

**Options:**

1. Make no changes and provide education on the importance of an audit.
2. Change the audit threshold; keep it at a fixed amount.
3. Change the audit threshold to a variable amount that increases based on inflation or some other factor.

## **Exhibit E**

### **Topic:**

Whether relief associations should be authorized to define in their bylaws what constitutes a month of service. A floor, such as 16 days, could be established along with a default in case the bylaws do not contain a definition.

### **Current Law:**

#### **424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.**

Subdivision 1. **Authorization.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, if the bylaws or articles of incorporation of the relief association so provide. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69.

#### **645.44 WORDS AND PHRASES DEFINED.**

Subd. 13. **Time; month; year.** "Month" means a calendar month and "year" means a calendar year, unless otherwise expressed; and "year" is equivalent to the expression "year of our Lord."

### **Optional Change:**

A service pension computed under this section may be prorated monthly for fractional years of service as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month" to mean a calendar month in which there has been at least sixteen days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service.

## **Exhibit F**

### **Topic:**

Whether the list of authorized investment securities should be expanded to allow relief associations and other local public pension plans to invest in exchange traded funds that invest in “other investments.”

### **Current Law:**

#### **356A.06 INVESTMENTS; ADDITIONAL DUTIES.**

##### **Subd. 7. Expanded list of authorized investment securities.**

...

(j) Exchange traded funds. The covered pension plan may invest funds in exchange traded funds, subject to the maximums, the requirements, and the limitations set forth in paragraphs (c) to (i), as applicable.

...

Paragraphs (c) to (i) of this provision authorize investment in government obligations, corporate obligations, other obligations, corporate stocks, developed market foreign stocks, commingled or mutual funds, and real estate investment trusts. “Other investments,” which include securities such as international bonds, emerging market stocks, and venture capital, are authorized under paragraph (k).

## **Exhibit G**

### **Topic:**

Whether the current ten-year amortization period for defined benefit lump sum plans should be increased.

### **Current Law:**

#### **69.772 RELIEF ASSOCIATIONS PAYING LUMP SUM SERVICE PENSIONS.**

##### **Subd. 3. Financial requirements of relief association; minimum obligation of municipality.**

(c) The financial requirements of the special fund for the following calendar year must be determined in the following manner:

...

(5) If the special fund has a deficit from full funding, the financial requirements of the special fund for the following calendar year are the financial requirements of the special fund calculated as though the special fund were fully funded under clause (4) plus an amount equal to one-tenth of the original amount of the deficit from full funding of the special fund as determined under clause (2) resulting either from an increase in the amount of the service pension occurring in the last ten years or from a net annual investment loss occurring during the last ten years until each increase in the deficit from full funding is fully retired. The annual amortization contribution under this clause may not exceed the amount of the deficit from full funding.

...

### **Options:**

1. Make no changes.
2. Increase the amortization period to 20 years, which is the period used by monthly and monthly/lump sum combination plans.
3. Increase the amortization period to a different time period.

Note: a change to the amortization period would require formula and design changes to the Schedule Form, the data pre-population and upload processes, and to the Office of the State Auditor's database application. The earliest possible effective date that can accommodate these changes would be for Schedule Forms completed in July of 2010, determining required contribution amounts for 2011.