



Working Group

Meeting Agenda: September 20, 2023

- I. Call to Order**
Chair Auditor Blaha.
- II. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft August 16, 2023, Meeting Minutes
- III. Review and Discussion of Draft Amendments to H.F. 3286**
Exhibits B through D.
 - H.F. 3286 (B)
 - Draft Amendment (C)
 - Additional Amendments to H.F. 3286 (D)
- IV. Defined Contribution Investment Allocations**
Exhibit E.
- V. Involuntary Dissolution Benefit and Reporting Requirements**
Exhibits F and G.
- VI. Follow-up Information re: LCPR Concerns About Member Contributions**
Exhibit H.
- VII. Flexible Ratification of Benefit Level Changes**
Exhibit I.
- VIII. Other Business**
- IX. Next Meeting**
Wednesday, October 4, 2023
2:00 p.m. to 3:30 p.m.
In-Person/Virtual Hybrid Format
- X. 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 September 19, 2023.



Exhibit A

8-16-23 Draft Minutes

Members Present

Julie Blaha, State Auditor

Eric Bullen, Minnesota State Fire Chiefs Association Representative (defined benefit lump sum plans)

Roger Carlson, Minnesota State Fire Department Association Representative (defined benefit monthly/lump sum plans)

Sue Iverson, City of Red Wing Finance & Accounting Manager

Dan Johnson, Mendota Heights Fire Relief Association Trustee (defined contribution plans)

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

Karl Mork, Bemidji Fire Relief Association Treasurer (defined benefit lump sum plans)

Thomas Wilson, Eden Prairie Fire Relief Association Secretary (defined benefit monthly/lump sum plans)

Members Excused

Steve Donney, City of Harmony Mayor

Darrell Pettis, St. Peter Fire Relief Association Treasurer (defined benefit lump sum plans)

Kyle Sammons, Belle Plaine Fire Relief Association Treasurer (defined benefit lump sum plans)

Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)

Michael Walstien, Plymouth Fire Relief Association Member (defined contribution plans)

Office of the State Auditor and Legislative Support Present

Ramona Advani, Deputy State Auditor and General Counsel

Rose Hennessy Allen, Office of the State Auditor Pension Director

Sean Kelly, Legislative Commission on Pensions and Retirement Deputy Director

I. Call to Order

Auditor Blaha called the meeting to order. She explained that the meeting was being conducted in a hybrid format and being recorded and streamed to the Office of the State Auditor (OSA) YouTube channel. The meeting agenda was accepted with no changes.

II. Review and Approval of Working Group Meeting Minutes

Members reviewed the July 26, 2023, meeting minutes that had been provided in advance. The meeting minutes were accepted with no changes.

III. Review and Discussion of Draft Amendment and Firefighter References

Working Group members discussed the amendment to H.F. 3286 and the proposed date when benefit level decreases would become effective if a relief association no longer had sufficient funding to operate at an unratified benefit level. The date was consistent with current practice and there were no concerns with the proposals. Working Group members also discussed the changes to the supplemental benefit provisions proposed in the amendment. There were no concerns with these changes, either, and the Working Group members adopted unanimously a motion to support these changes in the amendment to H.F. 3286.

It was agreed that approving changes outside of the statutes specific to relief associations are beyond the Working Group's scope.

Working Group members discussed a change proposed in an amendment drafted by the Legislative Commission on Pensions and Retirement (LCPR)'s Executive Director that would eliminate member contributions to a relief association's special fund from the municipal contribution calculation. LCPR Deputy Director Kelly shared that member contributions deposited in a relief association's special fund may be a violation of federal requirements that apply to qualified plans and result in tax consequences. Working Group members asked for additional information on this issue and that the topic be revisited during the next meeting.

IV. Review of Working Group Topic Rankings

Auditor Blaha shared the rankings of potential topics for the Working Group's consideration. She said that a high ranking doesn't necessarily mean that the Working Group supports the proposal or wants to make any change. Sometimes, Working Group members want to take a topic up so there can be a public discussion of the issue and support current law.

V. Discussion of Defined Contribution Investment Allocations

Hennessy Allen explained that questions have arisen about the period during which investment returns should be allocated to deferred member accounts. The default allocation method set in statute requires investment returns to be credited from the date a member separates from active service and membership until the "accounting date" immediately before the date on which the member commences receipt of the deferred service pension. Working Group members agreed that investment returns should be allocated through the most recent account valuation, and that a best practice is to value member accounts more frequently than just at year-end. Additionally, investment return allocations should not end when a deferred member commences receipt of the deferred service pension, but rather at the last valuation before the final distribution of the account balance. Updated draft language will be shared for consideration during the next meeting.

VI. Discussion of Involuntary Dissolution Benefit and Reporting Requirements

Hennessy Allen shared that some questions have been raised by relief associations that have dissolved or are considering dissolving about what requirements apply if the dissolution is involuntary. There is a provision in the section of statute that defines the process for a relief association to dissolve and terminate its pension plan that triggers and involuntary dissolution if there are no active relief association members for at least eight months. Some relief associations have wondered if an involuntary dissolution would exempt them from meeting the notice, benefit, and reporting requirements that otherwise would apply. It is important that final reports be filed with the OSA so that the OSA can review benefit payment amounts and confirm that special fund assets were distributed correctly. Working Group members discussed possible penalties that could be implemented if a dissolving relief association didn't file required reports and discussed the challenge of enforcement. Additional thought will be given to this topic, and it will be revisited during the next meeting.

VII. Other Business

There was no other business.



VIII. Next Meeting

Wednesday, September 20, 2023

2:00 p.m. to 3:30 p.m.

In-Person/Virtual Hybrid Format

IX. Adjournment

The meeting was adjourned at 3:04.

State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3286

04/25/2023 Authored by Nelson, M.; O'Driscoll; Berg; Her and Wolgamott
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act

1.2 relating to retirement; State Auditor's volunteer firefighter working group

1.3 recommendations; amending volunteer firefighters relief association provisions;

1.4 making conforming changes; amending Minnesota Statutes 2022, sections

1.5 424A.001, subdivisions 4, 5, 8, 9, 10; 424A.003; 424A.01, subdivisions 1, 2, 5;

1.6 424A.014, subdivision 1; 424A.015, subdivisions 1, 5, 7; 424A.016, subdivisions

1.7 2, 6; 424A.02, subdivisions 1, 3, 7, 9; 424A.021; 424A.092, subdivision 6;

1.8 424A.093, subdivision 6; 424A.094, subdivision 1; 424A.095, subdivision 2;

1.9 424A.10; 424B.22, subdivision 10.

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

1.11 **ARTICLE 1**

1.12 **AUDIT THRESHOLD AND ADMINISTRATIVE CHANGES**

1.13 **FOR RELIEF ASSOCIATIONS**

1.14 Section 1. Minnesota Statutes 2022, section 424A.014, subdivision 1, is amended to read:

1.15 Subdivision 1. **Financial report and audit.** (a) An annual financial report and audited
1.16 financial statements in accordance with paragraphs (c) to (e) must be submitted by the board
1.17 of trustees of the Bloomington Fire Department Relief Association and the board of trustees
1.18 of each ~~volunteer~~ firefighters relief association with special fund assets of at least \$500,000
1.19 \$750,000 or special fund liabilities of at least ~~\$500,000~~ \$750,000, according to any previous
1.20 year's financial report.

(b) The board of trustees of a ~~volunteer~~ firefighters relief association with special fund assets of less than ~~\$500,000~~ \$750,000 and special fund liabilities of less than ~~\$500,000~~ \$750,000, according to each previous year's financial report, may submit an annual financial report and audited financial statements in accordance with paragraphs (c) to (e).

2.1 (c) The financial report must cover the relief association's special fund and general fund
2.2 and be in the style and form prescribed by the state auditor. The financial report must be
2.3 countersigned by:

2.4 (1) the municipal clerk or clerk-treasurer of the municipality in which the relief
2.5 association is located if the relief association is directly associated with a municipal fire
2.6 department;

2.7 (2) the municipal clerk or clerk-treasurer of the largest municipality in population that
2.8 contracts with the independent nonprofit firefighting corporation if the ~~volunteer firefighter~~
2.9 firefighters relief association is a subsidiary of an independent nonprofit firefighting
2.10 corporation, and by the secretary of the independent nonprofit firefighting corporation; or

2.11 (3) the chief financial official of the county in which the ~~volunteer firefighter~~ firefighters
2.12 relief association is located or primarily located if the relief association is associated with
2.13 a fire department that is not located in or associated with an organized municipality.

2.14 (d) The financial report must be retained in the office of the Bloomington Fire Department
2.15 Relief Association or the ~~volunteer firefighter~~ firefighters relief association for public
2.16 inspection and must be filed with the governing body of the government subdivision in
2.17 which the associated fire department is located after the close of the fiscal year. One copy
2.18 of the financial report must be furnished to the state auditor on or before June 30 after the
2.19 close of the fiscal year.

2.20 (e) Audited financial statements that present the true financial condition of the relief
2.21 association's special fund and general fund must be attested to by a certified public accountant
2.22 or by the state auditor and must be filed with the state auditor on or before June 30 after the
2.23 close of the fiscal year. Audits must be conducted in compliance with generally accepted
2.24 auditing standards and section 6.65 governing audit procedures. The state auditor may accept
2.25 audited financial statements in lieu of the financial report required in paragraph (a).

2.26 (f) A firefighters relief association with special fund assets of less than \$750,000 and
2.27 special fund liabilities of less than \$750,000 on December 31, 2023, is not required to submit
2.28 audited financial statements unless and until the special fund assets or special fund liabilities
2.29 exceed \$750,000, even if audited financial statements were required on the date immediately
2.30 prior to the effective date.

2.31 **EFFECTIVE DATE.** This section is effective December 31, 2023, and applies to
2.32 audited financial statements for calendar year 2023 and thereafter.

3.1 Sec. 2. Minnesota Statutes 2022, section 424A.092, subdivision 6, is amended to read:

3.2 Subd. 6. **Municipal ratification for bylaws amendments.** (a) The board of trustees of
3.3 a relief association may adopt an amendment to the articles of incorporation or bylaws that
3.4 increases the coverage, service pensions, or retirement benefits provided by the relief
3.5 association only after preparing an estimate of the expected ~~increase in the financial~~
3.6 ~~requirements and~~ change to the accrued liability and the overall funding balance of the
3.7 special fund resulting from the amendment.

3.8 (b) For purposes of this subdivision, "~~financial requirements~~" "overall funding balance"
3.9 means the amount of the surplus or deficit calculated under subdivision 3, paragraph (e)
3.10 (b). "Accrued liability" means the amount calculated under subdivision 2 or 2a, as applicable.
3.11 "Estimate" means the estimate required in paragraph (a).

3.12 (c) If the special fund of a relief association to which this section applies ~~does not have~~
3.13 ~~a surplus over~~ has a deficit from full funding under subdivision 3, paragraph (e) (b), clause
3.14 (5) (3), and if the municipality is ~~required to provide financial support to the special fund~~
3.15 ~~under this section~~ has a minimum obligation under subdivision 3, paragraph (d), ~~the board~~
3.16 ~~of trustees of the relief association may adopt an~~ any amendment to the articles of
3.17 incorporation or bylaws adopted by the relief association that increases the coverage, service
3.18 pensions, or retirement benefits provided by the relief association. ~~The amendment~~ is not
3.19 effective until it is ratified by the governing body of the affiliated municipality or independent
3.20 nonprofit firefighting corporation, as applicable. The governing body may ratify such
3.21 amendment only if the relief association has delivered to the governing body the estimate
3.22 described in paragraphs (a) and (b), certified by an officer of the relief association.

3.23 (d) If the special fund of a relief association to which this section applies is fully funded
3.24 or has a surplus over full funding under subdivision 3, paragraph (e) (b), clause (5) (3), and
3.25 if the municipality is not required to provide financial support under subdivision 3, paragraph
3.26 (d), to the special fund under this section, the relief association may adopt an amendment
3.27 to the articles of incorporation or bylaws that increases the coverage, service pensions, or
3.28 retirement benefits provided by the relief association. ~~(1) The~~ Any such adopted amendment
3.29 is effective if the municipality ratifies the amendment. ~~(2) The amendment is effective~~
3.30 ~~without municipal ratification or, in the absence of municipal ratification, if the amendment~~
3.31 satisfies paragraph (e).

3.32 (e) An amendment satisfies this paragraph if the estimate described in paragraphs (a)
3.33 and (b) demonstrates that the amendment will not cause:

4.1 (1) the amount of the resulting increase in the accrued liability of the special fund to
4.2 exceed 90 percent of the amount of the surplus over full funding reported in the prior year;
4.3 ~~and~~

4.4 (2) ~~the financial requirements of the special fund to exceed the expected amount of the~~
4.5 ~~future fire state aid and police and firefighter retirement supplemental state aid to be received~~
4.6 ~~by the relief association.~~ an increase in the minimum obligation of the municipality for the
4.7 upcoming calendar year under subdivision 3, paragraph (d); and

4.8 (3) the special fund of the relief association to have a deficit from full funding under
4.9 subdivision 3, paragraph (c), clause (5), on the day immediately following the adoption of
4.10 the amendment.

4.11 (f) If a relief association amends the articles of incorporation or bylaws without municipal
4.12 ratification under this subdivision, and, subsequent to the amendment, the ~~financial~~
4.13 ~~requirements of the special fund of the relief association under this section are such so as~~
4.14 ~~to require financial support from~~ requires an increase in the minimum obligation of the
4.15 municipality under subdivision 3, paragraph (d), the provision which that was implemented
4.16 without municipal ratification is no longer effective and any service pensions or retirement
4.17 benefits payable after that date may be paid only in accordance with the articles of
4.18 incorporation or bylaws as amended with municipal ratification.

4.19 **EFFECTIVE DATE.** This section is effective January 1, 2024.

4.20 Sec. 3. Minnesota Statutes 2022, section 424A.093, subdivision 6, is amended to read:

4.21 Subd. 6. **Municipal ratification for bylaws amendments.** (a) The board of trustees of
4.22 a relief association may adopt an amendment to the articles of incorporation or bylaws that
4.23 increases the coverage, service pensions, or retirement benefits provided by the relief
4.24 association only after the board of trustees has had an updated actuarial valuation including
4.25 the proposed change or an estimate of the expected actuarial impact of the proposed change
4.26 prepared by the actuary of the relief association.

4.27 (b) If the special fund of a relief association to which this section applies ~~does not have~~
4.28 ~~a surplus over~~ has a deficit from full funding under subdivision 4, and or if the municipality
4.29 is required to provide financial support to the special fund has a minimum municipal
4.30 obligation under this section subdivision 5, the board of trustees of the relief association
4.31 may adopt an amendment to the articles of incorporation or bylaws that increases the
4.32 coverage, service pensions, or retirement benefits provided by the relief association. The
4.33 amendment is not effective until it is ratified by the governing body of the affiliated

5.1 municipality or independent nonprofit firefighting corporation, as applicable. The governing
5.2 body may ratify such amendment only if the relief association has delivered to the governing
5.3 body the actuarial valuation or estimate described in paragraph (a), certified by an officer
5.4 of the relief association.

5.5 (c) If the special fund of a relief association to which this section applies is fully funded
5.6 or has a surplus over full funding under subdivision 4, and if the municipality ~~is~~ does not
5.7 required to provide financial support to the special fund have a minimum municipal obligation
5.8 under this section subdivision 5, the relief association may adopt an amendment to the
5.9 articles of incorporation or bylaws that increases the coverage, service pensions, or retirement
5.10 benefits provided by the relief association. The amendment is effective:

5.11 (1) if the municipality ratifies the amendment; or

5.12 (2) without municipal ratification if the amendment satisfies paragraph (d).

5.13 (d) An amendment satisfies this paragraph if the actuarial valuation or estimate described
5.14 in paragraph (a) demonstrates that the amendment will not cause:

5.15 (1) the amount of the resulting increase in the accrued liability of the special fund to
5.16 exceed 90 percent of the amount of the surplus over full funding reported in the prior year;
5.17 ~~and~~

5.18 (2) ~~the financial requirements of the special fund to exceed the expected amount of the~~
5.19 ~~future fire state aid and police and firefighter retirement supplemental state aid to be received~~
5.20 ~~by the relief association. an increase in the minimum obligation of the municipality for the~~
5.21 upcoming calendar year; and

5.22 (3) the special fund of the relief association to have a deficit from full funding under
5.23 subdivision 4 on the day immediately following the adoption of the amendment.

5.24 (e) If a relief association amends its articles of incorporation or bylaws without municipal
5.25 ratification pursuant to this subdivision, and, subsequent to the amendment, the ~~financial~~
5.26 ~~requirements of the special fund of the relief association under this section are such so as~~
5.27 ~~to require~~ requires financial support from the municipality under this section, the provision
5.28 which was implemented without municipal ratification is no longer effective and any service
5.29 pensions or retirement benefits payable after that date may be paid only in accordance with
5.30 the articles of incorporation or bylaws as amended with municipal ratification.

5.31 **EFFECTIVE DATE.** This section is effective January 1, 2024.

6.1 Sec. 4. Minnesota Statutes 2022, section 424B.22, subdivision 10, is amended to read:

6.2 Subd. 10. **Supplemental benefits.** Within 60 days after the distribution of benefits under
6.3 subdivision 8, the municipality or firefighting corporation with which the fire department
6.4 is affiliated shall pay supplemental benefits under section 424A.10 to each participant and
6.5 survivor who satisfies the requirements of section 424A.10, subdivision 2. A supplemental
6.6 benefit is payable to each participant who receives a service pension if the participant is at
6.7 least age 50. A supplemental benefit is payable to each participant or survivor who receives
6.8 a disability benefit or survivor benefit without regard to any minimum age requirement.
6.9 The commissioner of revenue shall reimburse the municipality or independent nonprofit
6.10 firefighting corporation for all supplemental benefits paid as provided in section 424A.10,
6.11 subdivision 3.

6.12 **EFFECTIVE DATE.** This section is effective for supplemental benefits reimbursed in
6.13 calendar year 2024 and thereafter.

6.14 **ARTICLE 2**
6.15 **MODIFYING THE DEFINITION OF "FIREFIGHTER";**
6.16 **TECHNICAL AND CONFORMING CHANGES**

6.17 Section 1. Minnesota Statutes 2022, section 424A.001, subdivision 4, is amended to read:

6.18 Subd. 4. **Relief association.** (a) "Relief association" or "~~volunteer~~ firefighters relief
6.19 association" means a ~~volunteer~~ firefighters relief association or a ~~volunteer firefighters~~
6.20 ~~division or account of a partially salaried and partially volunteer firefighters relief association~~
6.21 that is:

6.22 (1) organized and incorporated as a nonprofit corporation to provide retirement benefits
6.23 to volunteer firefighters and paid on-call firefighters under chapter 317A and any laws of
6.24 the state;

6.25 (2) governed by this chapter and sections 424A.091 to 424A.095; and

6.26 (3) directly associated with:

6.27 (i) a fire department established by municipal ordinance;

6.28 (ii) an independent nonprofit firefighting corporation that is organized under the
6.29 provisions of chapter 317A and that operates primarily for firefighting purposes; or

6.30 (iii) a fire department operated as or by a joint powers entity that operates primarily for
6.31 firefighting purposes.

6.32 (b) "Relief association" or "~~volunteer~~ firefighters relief association" does not mean:

7.1 (1) the Bloomington Fire Department Relief Association governed by Laws 2013, chapter
7.2 111, article 5, sections 31 to 42; Minnesota Statutes 2000, chapter 424; and Laws 1965,
7.3 chapter 446, as amended; or

7.4 (2) the statewide volunteer firefighter plan governed by chapter 353G.

7.5 (c) A relief association or ~~volunteer~~ firefighters relief association is a governmental
7.6 entity that receives and manages public money to provide retirement benefits for individuals
7.7 providing the governmental services of firefighting and emergency first response.

7.8 **EFFECTIVE DATE.** This section is effective July 1, 2024.

7.9 Sec. 2. Minnesota Statutes 2022, section 424A.001, subdivision 5, is amended to read:

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

7.13 **EFFECTIVE DATE.** This section is effective July 1, 2024.

7.14 Sec. 3. Minnesota Statutes 2022, section 424A.001, subdivision 8, is amended to read:

7.15 Subd. 8. **Firefighting service.** "Firefighting service;" ~~if the applicable municipality~~
7.16 ~~approves for a fire department that is a municipal department, or if the applicable contracting~~
7.17 ~~municipality or municipalities approve for a fire department that is an independent nonprofit~~
7.18 ~~firefighting corporation, includes fire department service rendered~~ means duties performed
7.19 by firefighters and, if approved by the appropriate municipality or municipalities, duties
7.20 performed by fire prevention personnel.

7.21 **EFFECTIVE DATE.** This section is effective July 1, 2024.

7.22 Sec. 4. Minnesota Statutes 2022, section 424A.001, subdivision 9, is amended to read:

7.23 Subd. 9. **Separate from active service.** "Separate from active service" means that a
7.24 firefighter permanently ceases to perform fire suppression duties with a particular ~~volunteer~~
7.25 fire department, permanently ceases to perform fire prevention duties, permanently ceases
7.26 to supervise fire suppression duties, and permanently ceases to supervise fire prevention
7.27 duties.

7.28 **EFFECTIVE DATE.** This section is effective July 1, 2024.

8.1 Sec. 5. Minnesota Statutes 2022, section 424A.001, subdivision 10, is amended to read:

8.2 Subd. 10. ~~Volunteer Firefighter.~~ "Volunteer Firefighter" means a person who is a
8.3 ~~member of the applicable fire department or the independent nonprofit firefighting~~
8.4 ~~corporation~~ one or more of the following:

8.5 (1) "volunteer firefighter" means a firefighter who does not receive compensation per
8.6 call or hour for firefighting services but who may receive reimbursement for expenses, who
8.7 has a choice of availability in providing services with the fire department, and who is eligible
8.8 for membership in the applicable relief association and; associated with the fire department
8.9 or participates in the statewide volunteer firefighter plan under chapter 353G;

8.10 ~~(i) is engaged in providing emergency response services or delivering fire education or~~
8.11 ~~prevention services as a member of a fire department;~~

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

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

8.16 (2) "paid on-call firefighter" means a firefighter who receives compensation per call or
8.17 per hour for firefighting services, who has a choice of availability in providing services with
8.18 the fire department, and who is eligible for membership in a relief association associated
8.19 with the fire department or participates in the statewide volunteer firefighter plan under
8.20 chapter 353G;

8.21 (3) "part-time firefighter" means a firefighter who receives compensation per call or per
8.22 hour for firefighting services, whose services with the fire department are scheduled and
8.23 who, as a result of providing firefighting services, is a member or is eligible to be a member
8.24 of a fund operated pursuant to chapter 353 other than the statewide volunteer firefighter
8.25 plan under chapter 353G; and

8.26 (4) "full-time firefighter" or "career firefighter" means a firefighter who receives
8.27 compensation per hour or through a salary for firefighting services, whose services with
8.28 the fire department are scheduled and who, as a result of providing firefighting services, is
8.29 a member or is eligible to be a member of a fund operated pursuant to chapter 353 other
8.30 than the statewide volunteer firefighter plan under chapter 353G.

8.31 **EFFECTIVE DATE.** This section is effective July 1, 2024.

9.1 Sec. 6. Minnesota Statutes 2022, section 424A.003, is amended to read:

9.2 **424A.003 CERTIFICATION OF SERVICE CREDIT.**

9.3 (a) When a municipal fire department, a joint powers fire department, or an independent
9.4 nonprofit firefighting corporation is directly associated with the ~~volunteer~~ firefighters relief
9.5 association, the fire chief shall certify annually by March 31 the service credit for the
9.6 previous calendar year of each volunteer firefighter and paid on-call firefighter rendering
9.7 active service with the fire department.

9.8 (b) The certification shall be made to an officer of the relief association's board of trustees
9.9 and to the municipal clerk or clerk-treasurer of the largest municipality in population served
9.10 by the associated fire department.

9.11 (c) The fire chief shall notify each volunteer firefighter and paid on-call firefighter
9.12 rendering active service with the fire department of the amount of service credit rendered
9.13 by the firefighter for the previous calendar year. Upon request, the fire chief shall provide
9.14 the firefighter with a written explanation and documentation to support the determination
9.15 of service credit. The service credit notification and a description of the process and deadlines
9.16 for the firefighter to challenge the fire chief's determination of service credit must be provided
9.17 to the firefighter at least 21 days prior to its certification to the relief association and
9.18 municipality. If the service credit amount is challenged, the fire chief shall accept and
9.19 consider any additional pertinent information and shall make a final determination of service
9.20 credit.

9.21 (d) The service credit certification must be expressed as the number of completed months
9.22 of the previous year during which an active volunteer firefighter or paid on-call firefighter
9.23 rendered at least the minimum level of duties as specified and required by the fire department
9.24 under the rules, regulations, and policies applicable to the fire department. No more than
9.25 one year of service credit may be certified for a calendar year.

9.26 (e) If a volunteer firefighter or paid on-call firefighter who is a member of the relief
9.27 association leaves active firefighting service to render active military service that is required
9.28 to be governed by the federal Uniformed Services Employment and Reemployment Rights
9.29 Act, as amended, the firefighter must be certified as providing service credit for the period
9.30 of the military service, up to the applicable limit of the federal Uniformed Services
9.31 Employment and Reemployment Rights Act. If the volunteer firefighter or paid on-call
9.32 firefighter does not return from the military service in compliance with the federal Uniformed
9.33 Services Employment and Reemployment Rights Act, the service credits applicable to that

10.1 military service credit period are forfeited and canceled at the end of the calendar year in
10.2 which the time limit set by federal law occurs.

10.3 **EFFECTIVE DATE.** This section is effective July 1, 2024.

10.4 Sec. 7. Minnesota Statutes 2022, section 424A.01, subdivision 1, is amended to read:

10.5 Subdivision 1. ~~Minors~~ **Membership eligibility.** ~~No volunteer~~ (a) A firefighter or any
10.6 volunteer emergency medical personnel is eligible for membership in a firefighters relief
10.7 association associated with a if the firefighter or volunteer emergency medical personnel
10.8 satisfies the requirements of paragraph (b) or (c), as applicable, and is not otherwise
10.9 prohibited from membership under this chapter.

10.10 (b) To be eligible for membership in a relief association, a firefighter must be a member
10.11 of the fire department and:

10.12 (1) provide services as a volunteer firefighter or as a paid on-call firefighter, although
10.13 the firefighter need not exclusively provide services as either a volunteer firefighter or a
10.14 paid on-call firefighter;

10.15 (2) be engaged in providing emergency response services or delivering fire education
10.16 or prevention services as a member of a fire department;

10.17 (3) be trained in or qualified to provide fire suppression duties or to provide fire
10.18 prevention duties; and

10.19 (4) meet any other minimum firefighter and service standards established by the fire
10.20 department or specified in the articles of incorporation or bylaws of the firefighters relief
10.21 association.

10.22 (c) Any volunteer emergency medical personnel is eligible to be a member of the
10.23 firefighters relief association and to qualify for a service pension or other benefit coverage
10.24 of the relief association on the same basis as fire department personnel who perform or
10.25 supervise fire suppression or fire prevention duties if:

10.26 (1) the fire department employs or otherwise uses the services of the person solely as
10.27 volunteer emergency medical personnel to perform emergency medical response duties or
10.28 supervise emergency medical response activities;

10.29 (2) the bylaws of the firefighters relief association authorize the volunteer emergency
10.30 medical personnel's eligibility; and

10.31 (3) the volunteer emergency medical personnel's eligibility is approved by:

- 11.1 (i) the municipality, ~~a~~ if the fire department is a municipal department;
- 11.2 (ii) the joint powers ~~entity~~ board, if the fire department is a joint powers entity; or
- 11.3 (iii) the contracting municipality or municipalities, if the fire department is an independent
- 11.4 nonprofit firefighting corporation ~~may include as a~~.
- 11.5 (d) Minors are prohibited from membership in a firefighters relief association ~~member~~
- 11.6 ~~a minor serving as a volunteer firefighter.~~
- 11.7 **EFFECTIVE DATE.** This section is effective January 1, 2024.

11.8 Sec. 8. Minnesota Statutes 2022, section 424A.01, subdivision 2, is amended to read:

- 11.9 Subd. 2. **Status of substitute ~~volunteer~~ firefighters.** No person who is serving as a
- 11.10 substitute ~~volunteer~~ firefighter may be considered to be a firefighter for purposes of chapter
- 11.11 477B or this chapter and no substitute ~~volunteer~~ firefighter is authorized to be a member of
- 11.12 any ~~volunteer~~ firefighters relief association governed by chapter 477B or this chapter.

11.13 **EFFECTIVE DATE.** This section is effective July 1, 2024.

11.14 Sec. 9. Minnesota Statutes 2022, section 424A.01, subdivision 5, is amended to read:

- 11.15 Subd. 5. **Fire prevention personnel.** (a) If the applicable municipality or municipalities
- 11.16 approve, the fire department may employ or otherwise utilize the services of persons as
- 11.17 ~~volunteer~~ firefighters to perform fire prevention duties and to supervise fire prevention
- 11.18 activities.

- 11.19 (b) ~~Personnel~~ Volunteer firefighters and paid on-call firefighters serving in fire prevention
- 11.20 positions are eligible to be members of the applicable ~~volunteer firefighter~~ firefighters relief
- 11.21 association and to qualify for service pension or other benefit coverage of the relief
- 11.22 association on the same basis as fire department personnel who perform fire suppression
- 11.23 duties.

- 11.24 (c) ~~Personnel~~ Volunteer firefighters and paid on-call firefighters serving in fire prevention
- 11.25 positions also are eligible to receive any other benefits under the applicable law or practice
- 11.26 for services on the same basis as personnel who are employed to perform fire suppression
- 11.27 duties.

11.28 **EFFECTIVE DATE.** This section is effective July 1, 2024.

12.1 Sec. 10. Minnesota Statutes 2022, section 424A.015, subdivision 1, is amended to read:

12.2 Subdivision 1. **Separation from active service; exception.** (a) No service pension is
12.3 payable to a person while the person remains an active member of the respective fire
12.4 department, and a person who is receiving a service pension is not entitled to receive any
12.5 other benefits from the special fund of the relief association.

12.6 (b) No relief association as defined in section 424A.001, subdivision 4, may pay a service
12.7 pension or disability benefit to a former member of the relief association if that person has
12.8 not separated from active service with the fire department to which the relief association is
12.9 directly associated, unless:

12.10 (1) the person discontinues volunteer firefighter and paid on-call firefighter duties with
12.11 the fire department and performs duties within the fire department on a part-time or full-time
12.12 basis;

12.13 (2) the governing body of the municipality, of the independent nonprofit firefighting
12.14 corporation, or of the joint powers entity has filed its determination with the board of trustees
12.15 of the relief association that the person's experience with and service to the fire department
12.16 in that person's part-time or full-time capacity would be difficult to replace; and

12.17 (3) the bylaws of the relief association were amended to provide for the payment of a
12.18 service pension or disability benefit for such part-time or full-time employees.

12.19 **EFFECTIVE DATE.** This section is effective July 1, 2024.

12.20 Sec. 11. Minnesota Statutes 2022, section 424A.015, subdivision 5, is amended to read:

12.21 Subd. 5. **Minnesota deferred compensation plan transfers.** A relief association may
12.22 directly transfer on an institution-to-institution basis the eligible member's lump-sum pension
12.23 amount to the requesting member's account in the Minnesota deferred compensation plan,
12.24 if:

12.25 (1) the governing articles of incorporation or bylaws so provide;

12.26 (2) the ~~volunteer~~ firefighter participates in the Minnesota deferred compensation plan
12.27 at the time of retirement; and

12.28 (3) the applicable retiring firefighter requests in writing that the relief association do so.

12.29 **EFFECTIVE DATE.** This section is effective July 1, 2024.

13.1 Sec. 12. Minnesota Statutes 2022, section 424A.015, subdivision 7, is amended to read:

13.2 Subd. 7. **Combined service pensions.** (a) A member with credit for service as an active
13.3 firefighter in more than one ~~volunteer~~ firefighters relief association is entitled to a service
13.4 pension from each participating relief association if:

13.5 (1) the articles of incorporation or bylaws of the relief associations provide for such
13.6 combined service pensions;

13.7 (2) the applicable requirements of paragraphs (b) to (e) are met; and

13.8 (3) the member otherwise qualifies.

13.9 (b) A member receiving a service pension under this subdivision must be at least partially
13.10 vested under the bylaws of the first participating relief association on the date on which the
13.11 member terminates active service with that relief association. The service pension paid from
13.12 the first participating relief association shall be based on the years of active service accrued
13.13 in the first relief association and the vesting percentage applicable to those years of active
13.14 service.

13.15 (c) To receive a service pension from each subsequent relief association, the member
13.16 must be at least partially vested under the bylaws of the subsequent relief association, taking
13.17 into consideration the member's total service credit accrued in all participating relief
13.18 associations to the date the member terminates active service with the subsequent relief
13.19 association. The service pension paid from each subsequent relief association shall be based
13.20 on the years of active service accrued solely in that relief association and the vesting
13.21 percentage applicable to the combined amount of total service credit accrued in all of the
13.22 participating relief associations.

13.23 (d) The member must have one or more years of service credit in each participating
13.24 relief association. The service pension must be based on:

13.25 (1) for defined benefit relief associations, the service pension amount in effect for the
13.26 relief association on the date on which the member's active ~~volunteer~~ firefighting services
13.27 covered by that relief association terminate; and

13.28 (2) for defined contribution relief associations, the member's individual account balance
13.29 on the date on which the member's active ~~volunteer~~ firefighting services covered by that
13.30 relief association terminate.

13.31 (e) To receive a service pension under this subdivision, the member must become a
13.32 member of the subsequent relief association within two years of the date of termination of
13.33 active service with the prior relief association. If requested by the member or a subsequent

14.1 relief association, the secretary of each prior relief association must provide written notice
14.2 to the member and the subsequent relief association regarding the amount of active service
14.3 accrued by the member in the prior relief association.

14.4 **EFFECTIVE DATE.** This section is effective July 1, 2024.

14.5 Sec. 13. Minnesota Statutes 2022, section 424A.016, subdivision 2, is amended to read:

14.6 Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association,
14.7 when its articles of incorporation or bylaws so provide, may pay out of the assets of its
14.8 special fund a defined contribution service pension to each of its members who:

14.9 (1) separates from active service with the fire department;

14.10 (2) reaches age 50;

14.11 (3) completes at least five years of active service as an active member of the fire
14.12 department to which the relief association is associated;

14.13 (4) completes at least five years of active membership with the relief association before
14.14 separation from active service; and

14.15 (5) complies with any additional conditions as to age, service, and membership that are
14.16 prescribed by the bylaws of the relief association.

14.17 (b) In the case of a member who has completed at least five years of active service as
14.18 an active member of the fire department to which the relief association is associated on the
14.19 date that the relief association is established and incorporated, the requirement that the
14.20 member complete at least five years of active membership with the relief association before
14.21 separation from active service may be waived by the board of trustees of the relief association
14.22 if the member completes at least five years of inactive membership with the relief association
14.23 before the date of the payment of the service pension. During the period of inactive
14.24 membership, the member is not entitled to receive any disability benefit coverage, is not
14.25 entitled to receive additional individual account allocation of fire state aid or municipal
14.26 contribution ~~towards~~ toward a service pension, and is considered to have the status of a
14.27 person entitled to a deferred service pension.

14.28 (c) The service pension earned by a ~~volunteer~~ firefighter under this chapter and the
14.29 articles of incorporation and bylaws of the relief association may be paid whether or not
14.30 the municipality or independent nonprofit firefighting corporation to which the relief
14.31 association is associated qualifies for the receipt of fire state aid under chapter 477B.

14.32 **EFFECTIVE DATE.** This section is effective July 1, 2024.

- 15.1 Sec. 14. Minnesota Statutes 2022, section 424A.016, subdivision 6, is amended to read:
- 15.2 Subd. 6. **Deferred service pensions.** (a) A "deferred member" means a member of a
15.3 relief association who has separated from active service and membership and has completed
15.4 the minimum service and membership requirements in subdivision 2. The requirement that
15.5 a member separate from active service and membership is waived for persons who have
15.6 discontinued their volunteer firefighter and paid on-call firefighter duties and who are
15.7 employed on a part-time or full-time basis under section 424A.015, subdivision 1.
- 15.8 (b) A deferred member is entitled to receive a deferred service pension when the member
15.9 reaches at least age 50, or at least the minimum age specified in the bylaws governing the
15.10 relief association if that age is greater than age 50, and makes a valid written application.
- 15.11 (c) A defined contribution relief association must credit interest or additional investment
15.12 performance on the deferred lump-sum service pension during the period of deferral for all
15.13 deferred members on or after January 1, 2021. A defined contribution relief association
15.14 may specify in its bylaws the method by which it will credit interest or additional investment
15.15 performance to the accounts of deferred members. Such method shall be limited to one of
15.16 the three methods provided in this paragraph. In the event the bylaws do not specify a
15.17 method, the interest or additional investment performance must be credited using the method
15.18 defined in clause (3). The permissible methods are:
- 15.19 (1) at the investment performance rate actually earned on that portion of the assets if the
15.20 deferred benefit amount is invested by the relief association in a separate account established
15.21 and maintained by the relief association;
- 15.22 (2) at the investment performance rate actually earned on that portion of the assets if the
15.23 deferred benefit amount is invested in a separate investment vehicle held by the relief
15.24 association; or
- 15.25 (3) at the investment return on the assets of the special fund of the defined contribution
15.26 ~~volunteer~~ firefighters relief association in proportion to the share of the assets of the special
15.27 fund to the credit of each individual deferred member account through the accounting date
15.28 on which the investment return is recognized by and credited to the special fund.
- 15.29 (d) Notwithstanding the requirements of section 424A.015, subdivision 6, bylaw
15.30 amendments made in accordance with paragraph (c) on or before January 1, 2022, shall
15.31 apply to members already in deferred status as of January 1, 2021.

16.1 (e) Unless the bylaws provide differently, the dates that will be used by a relief association
16.2 in determining the creditable amount of interest or additional investment performance on
16.3 a deferred service pension shall be as follows:

16.4 (1) for a relief association that has elected to credit interest or additional investment
16.5 performance under paragraph (c), clause (1) or (3), beginning on the date that the member
16.6 separates from active service and membership and ending on the accounting date immediately
16.7 before the deferred member commences receipt of the deferred service pension; or

16.8 (2) for a relief association that has elected to credit interest or additional investment
16.9 performance under paragraph (c), clause (2), beginning on the date that the member separates
16.10 from active service and membership and ending on the date that the separate investment
16.11 vehicle is valued immediately before the date on which the deferred member commences
16.12 receipt of the deferred service pension.

16.13 **EFFECTIVE DATE.** This section is effective July 1, 2024.

16.14 Sec. 15. Minnesota Statutes 2022, section 424A.02, subdivision 1, is amended to read:

16.15 Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles
16.16 of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined
16.17 benefit service pension to each of its members who: (1) separates from active service with
16.18 the fire department; (2) reaches age 50; (3) completes at least five years of active service
16.19 as an active member of the fire department to which the relief association is associated; (4)
16.20 completes at least five years of active membership with the relief association before
16.21 separation from active service; and (5) complies with any additional conditions as to age,
16.22 service, and membership that are prescribed by the bylaws of the relief association. A service
16.23 pension computed under this section may be prorated monthly for fractional years of service
16.24 as the bylaws or articles of incorporation of the relief association so provide. The bylaws
16.25 or articles of incorporation may define a "month," but the definition must require a calendar
16.26 month to have at least 16 days of active service. If the bylaws or articles of incorporation
16.27 do not define a "month," a "month" is a completed calendar month of active service measured
16.28 from the member's date of entry to the same date in the subsequent month. The service
16.29 pension earned by a ~~volunteer~~ firefighter under this chapter and the articles of incorporation
16.30 and bylaws of the ~~volunteer~~ firefighters relief association may be paid whether or not the
16.31 municipality or independent nonprofit firefighting corporation to which the relief association
16.32 is associated qualifies for the receipt of fire state aid under chapter 477B.

16.33 (b) In the case of a member who has completed at least five years of active service as
16.34 an active member of the fire department to which the relief association is associated on the

17.1 date that the relief association is established and incorporated, the requirement that the
17.2 member complete at least five years of active membership with the relief association before
17.3 separation from active service may be waived by the board of trustees of the relief association
17.4 if the member completes at least five years of inactive membership with the relief association
17.5 before the date of the payment of the service pension. During the period of inactive
17.6 membership, the member is not entitled to receive disability benefit coverage, is not entitled
17.7 to receive additional service credit ~~towards~~ toward computation of a service pension, and
17.8 is considered to have the status of a person entitled to a deferred service pension under
17.9 subdivision 7.

17.10 (c) No municipality, independent nonprofit firefighting corporation, or joint powers
17.11 entity may delegate the power to take final action in setting a service pension or ancillary
17.12 benefit amount or level to the board of trustees of the relief association or to approve in
17.13 advance a service pension or ancillary benefit amount or level equal to the maximum amount
17.14 or level that this chapter would allow rather than a specific dollar amount or level.

17.15 **EFFECTIVE DATE.** This section is effective July 1, 2024.

17.16 Sec. 16. Minnesota Statutes 2022, section 424A.02, subdivision 3, is amended to read:

17.17 Subd. 3. **Determining maximum pension benefit.** (a) Except as provided in paragraph
17.18 (b) and section 424B.22, subdivision 4, a defined benefit relief association may not set in
17.19 its bylaws a service pension amount above the following maximum amounts:

17.20 (1) for a defined benefit relief association in which the governing bylaws provide for a
17.21 monthly service pension, the maximum monthly service pension amount per month for each
17.22 year of service credited is the lesser of \$100 or the maximum monthly service pension
17.23 amount that could be adopted by the relief association as a bylaws amendment that satisfies
17.24 section 424A.093, subdivision 6, paragraph (d); and

17.25 (2) for a defined benefit relief association in which the governing bylaws provide for a
17.26 lump-sum service pension, the maximum lump-sum service pension amount for each year
17.27 of service credited is the lesser of \$15,000 or the maximum lump-sum service pension
17.28 amount that could be adopted by the relief association as a bylaws amendment that satisfies
17.29 section 424A.092, subdivision 6, paragraph (e).

17.30 (b) A defined benefit relief association may set in its bylaws a service pension amount
17.31 that is not greater than the maximum amounts in clause (1) or (2), as applicable, but only
17.32 if the service pension amount has been ratified by the municipality.

18.1 (1) For a defined benefit relief association that pays a monthly service pension, the
18.2 maximum monthly service pension amount per month for each year of service credited is
18.3 \$100.

18.4 (2) For a defined benefit relief association that pays a lump-sum service pension, the
18.5 maximum lump-sum service pension amount for each year of service credited is \$15,000.

18.6 (c) The method of calculating service pensions must be applied uniformly for all years
18.7 of active service. Credit must be given for all years of active service, unless the bylaws of
18.8 the relief association provide that service credit is not given for:

18.9 (1) years of active service in excess of caps on service credit; or

18.10 (2) years of active service earned by a former member who:

18.11 (i) has ceased duties as a volunteer firefighter and paid on-call firefighter with the fire
18.12 department before becoming vested under subdivision 2; and

18.13 (ii) has not resumed active service with the fire department and active membership in
18.14 the relief association for a period as defined in the relief association's bylaws, of not less
18.15 than five years.

18.16 **EFFECTIVE DATE.** This section is effective July 1, 2024.

18.17 Sec. 17. Minnesota Statutes 2022, section 424A.02, subdivision 7, is amended to read:

18.18 Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association
18.19 is entitled to a deferred service pension if the member separates from active service and
18.20 membership and has completed the minimum service and membership requirements in
18.21 subdivision 1. The requirement that a member separate from active service and membership
18.22 is waived for persons who have discontinued their volunteer firefighter and paid on-call
18.23 firefighter duties and who are employed on a part-time or full-time basis under section
18.24 424A.015, subdivision 1.

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

18.29 (c) A defined benefit relief association that provides a lump-sum service pension governed
18.30 by subdivision 2c may, when its governing bylaws so provide, credit interest on the deferred
18.31 lump-sum service pension during the period of deferral. If provided for in the bylaws, interest
18.32 must be credited in one of the following manners:

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

19.4 (2) at the investment performance rate actually earned on that portion of the assets if the
19.5 deferred benefit amount is invested in a separate investment vehicle held by the relief
19.6 association; or

19.7 (3) at an interest rate of up to five percent, compounded annually, as set by the board of
19.8 trustees.

19.9 (d) Any change in the interest rate set by the board of trustees under paragraph (c), clause
19.10 (3), must be ratified by the governing body of the municipality or joint powers entity served
19.11 by the fire department to which the relief association is directly associated, or by the
19.12 independent nonprofit firefighting corporation, as applicable.

19.13 (e) Interest under paragraph (c), clause (3), is credited beginning on the January 1 next
19.14 following the date on which the deferred service pension interest rate as set by the board of
19.15 trustees was ratified by the governing body of the municipality or joint powers entity served
19.16 by the fire department to which the relief association is directly associated, or by the
19.17 independent nonprofit firefighting corporation, as applicable.

19.18 (f) Unless the bylaws of a relief association that has elected to credit interest or additional
19.19 investment performance on deferred lump-sum service pensions under paragraph (c) specifies
19.20 a different interest or additional investment performance method, including the interest or
19.21 additional investment performance period starting date and ending date, the interest or
19.22 additional investment performance on a deferred service pension is creditable as follows:

19.23 (1) for a relief association that has elected to credit interest or additional investment
19.24 performance under paragraph (c), clause (1) or (3), beginning on the first day of the month
19.25 next following the date on which the member separates from active service and membership
19.26 and ending on the last day of the month immediately before the month in which the deferred
19.27 member commences receipt of the deferred service pension; or

19.28 (2) for a relief association that has elected to credit interest or additional investment
19.29 performance under paragraph (c), clause (2), beginning on the date that the member separates
19.30 from active service and membership and ending on the date that the separate investment
19.31 vehicle is valued immediately before the date on which the deferred member commences
19.32 receipt of the deferred service pension.

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

20.8 **EFFECTIVE DATE.** This section is effective July 1, 2024.

20.9 Sec. 18. Minnesota Statutes 2022, section 424A.02, subdivision 9, is amended to read:

20.10 Subd. 9. **Limitation on ancillary benefits.** A defined benefit relief association, ~~including~~
20.11 ~~any volunteer firefighters relief association governed by Laws 2013, chapter 111, article 5,~~
20.12 ~~sections 31 to 42, or any volunteer firefighters division of a relief association governed by~~
20.13 ~~chapter 424, and the Bloomington Fire Department Relief Association~~ may only pay ancillary
20.14 benefits ~~which that~~ would constitute an authorized disbursement as specified in section
20.15 424A.05 subject to the following requirements or limitations:

20.16 (1) with respect to a defined benefit relief association in which governing bylaws provide
20.17 solely for a lump-sum service pension to a retiring member, or provide a retiring member
20.18 the choice of either a lump-sum service pension or a monthly service pension and the
20.19 lump-sum service pension was chosen, no ancillary benefit may be paid to any former
20.20 member or paid to any person on behalf of any former member after the former member (i)
20.21 terminates active service with the fire department and active membership in the relief
20.22 association; and (ii) commences receipt of a service pension as authorized under this section;
20.23 and

20.24 (2) with respect to any defined benefit relief association, no ancillary benefit paid or
20.25 payable to any member, to any former member, or to any person on behalf of any member
20.26 or former member, may exceed in amount the total earned service pension of the member
20.27 or former member. The total earned service pension must be calculated by multiplying the
20.28 service pension amount specified in the bylaws of the relief association at the time of death
20.29 or disability, whichever applies, by the years of service credited to the member or former
20.30 member. The years of service must be determined as of (i) the date the member or former
20.31 member became entitled to the ancillary benefit; or (ii) the date the member or former
20.32 member died entitling a survivor or the estate of the member or former member to an
20.33 ancillary benefit. The ancillary benefit must be calculated without regard to whether the
20.34 member had attained the minimum amount of service and membership credit specified in

21.1 the governing bylaws. For active members, the amount of a permanent disability benefit or
21.2 a survivor benefit must be equal to the member's total earned service pension except that
21.3 the bylaws of a defined benefit relief association may provide for the payment of a survivor
21.4 benefit in an amount not to exceed five times the yearly service pension amount specified
21.5 in the bylaws on behalf of any member who dies before having performed five years of
21.6 active service in the fire department with which the relief association is affiliated. For
21.7 deferred members, the amount of a permanent disability benefit or a survivor benefit must
21.8 be calculated using the service pension amount in effect on the date specified in section
21.9 424A.015, subdivision 6, unless the bylaws of the relief association specify a different
21.10 service pension amount to be used for the calculation.

21.11 (3)(i) If a lump sum survivor or death benefit is payable under the articles of incorporation
21.12 or bylaws, the benefit must be paid:

21.13 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

21.14 (B) as a survivor benefit to the surviving children of the deceased firefighter if no
21.15 surviving spouse;

21.16 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no
21.17 surviving spouse or surviving children; or

21.18 (D) as a death benefit to the estate of the deceased active or deferred firefighter if no
21.19 surviving children and no beneficiary designated.

21.20 (ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly
21.21 or partially, the spouse's entitlement to a survivor benefit.

21.22 (4)(i) If a monthly benefit survivor or death benefit is payable under the articles of
21.23 incorporation or bylaws, the benefit must be paid:

21.24 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

21.25 (B) as a survivor benefit to the surviving children of the deceased firefighter if no
21.26 surviving spouse;

21.27 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no
21.28 surviving spouse or surviving children; or

21.29 (D) as a death benefit to the estate of the deceased active or deferred firefighter if no
21.30 surviving spouse, no surviving children, and no beneficiary designated.

21.31 (ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly
21.32 or partially, the spouse's entitlement to a survivor benefit.

22.1 (iii) For purposes of this clause, if the relief association bylaws authorize a monthly
22.2 survivor benefit payable to a designated beneficiary, the relief association bylaws may limit
22.3 the total survivor benefit amount payable.

22.4 (5) For purposes of this section, for a monthly benefit volunteer fire relief association
22.5 or for a combination lump-sum and monthly benefit volunteer fire relief association where
22.6 a monthly benefit service pension has been elected by or a monthly benefit is payable with
22.7 respect to a firefighter, a designated beneficiary must be a natural person. For purposes of
22.8 this section, for a lump-sum volunteer fire relief association or for a combination lump-sum
22.9 and monthly benefit volunteer fire relief association where a lump-sum service pension has
22.10 been elected by or a lump-sum benefit is payable with respect to a firefighter, a trust created
22.11 under chapter 501C may be a designated beneficiary. If a trust is payable to the surviving
22.12 children organized under chapter 501C as authorized by this section and there is no surviving
22.13 spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this
22.14 section to the contrary.

22.15 **EFFECTIVE DATE.** This section is effective July 1, 2024.

22.16 Sec. 19. Minnesota Statutes 2022, section 424A.021, is amended to read:

22.17 **424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED**
22.18 **SERVICE.**

22.19 Subdivision 1. **Authorization.** Subject to restrictions stated in this section, a volunteer
22.20 firefighter or paid on-call firefighter who is absent from firefighting service due to service
22.21 in the uniformed services, as defined in United States Code, title 38, section 4303(13), may
22.22 obtain service credit if the relief association is a defined benefit plan or an allocation by the
22.23 relief association as though the person was an active member if the relief association is a
22.24 defined contribution plan for the period of the uniformed service, not to exceed five years,
22.25 unless a longer period is required under United States Code, title 38, section 4312.

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

22.31 (b) Service credit or an allocation as though an active member is not authorized if the
22.32 firefighter separates from uniformed service with a dishonorable or bad conduct discharge
22.33 or under other than honorable conditions.

23.1 (c) Service credit or an allocation as though an active member is not authorized if the
23.2 firefighter fails to provide notice to the fire department that the individual is leaving to
23.3 provide service in the uniformed service, unless it is not feasible to provide that notice due
23.4 to the emergency nature of the situation.

23.5 **EFFECTIVE DATE.** This section is effective July 1, 2024.

23.6 Sec. 20. Minnesota Statutes 2022, section 424A.094, subdivision 1, is amended to read:

23.7 Subdivision 1. **Authorized inclusion in fire state aid program; covered nonprofit**
23.8 **corporations.** (a) This section applies to any independent nonprofit firefighting corporation
23.9 incorporated or organized under chapter 317A ~~which that~~: (1) operates exclusively for
23.10 firefighting purposes; (2) ~~which that~~ is composed of volunteer firefighters and paid on-call
23.11 firefighters; and (3) ~~which that~~ has a duly established separate subsidiary incorporated
23.12 firefighters relief association ~~which that~~ provides retirement coverage for or pays a service
23.13 pension to a retired firefighter or a retirement benefit to a surviving dependent of either an
23.14 active or a retired firefighter, and ~~which that~~ is subject to the applicable provisions of chapter
23.15 424A.

23.16 (b) Notwithstanding any law to the contrary, a municipality contracting with an
23.17 independent nonprofit firefighting corporation must be included in the distribution of fire
23.18 state aid to the appropriate county auditor by the state auditor only if the independent
23.19 nonprofit firefighting corporation complies with the provisions of this section.

23.20 **EFFECTIVE DATE.** This section is effective July 1, 2024.

23.21 Sec. 21. Minnesota Statutes 2022, section 424A.095, subdivision 2, is amended to read:

23.22 Subd. 2. **Investment report.** (a) Annually, the state auditor must provide an investment
23.23 report to each relief association that has complied with the reporting requirements under
23.24 section 356.219, subdivisions 1 and 3. The investment report must contain the following
23.25 information:

23.26 (1) the relief association's average annual rates of return for at least the previous one-,
23.27 three-, five-, ten-, 15-, and 20-year periods for which the state auditor has investment
23.28 information;

23.29 (2) the relief association's asset allocation;

23.30 (3) the average annual one-year and ten-year benchmark rates of return;

24.1 (4) the average annual one-year and ten-year rates of return for the statewide volunteer
24.2 firefighter plan;

24.3 (5) the one-year and ten-year average annual rates of return for the State Board of
24.4 Investment supplemental investment fund; and

24.5 (6) a graphical comparison between:

24.6 (i) the relief association's average annual rates of return for the previous year and for
24.7 the previous multiyear periods provided under clause (1); and

24.8 (ii) the average annual rates of return for the same periods for the supplemental investment
24.9 fund's balanced fund or any successor fund.

24.10 (b) The state auditor shall select the benchmark rates of return based on the best practice
24.11 in the industry.

24.12 (c) An officer of the relief association's board of trustees must certify to the state auditor
24.13 that the board reviewed the investment report. The certification must accompany the audited
24.14 financial statements or detailed financial statement under section 424A.014, subdivision 1
24.15 or 2, whichever applies. A copy of the report must be kept on file by the relief association
24.16 and must be available for inspection by any member of the public.

24.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.18 Sec. 22. Minnesota Statutes 2022, section 424A.10, is amended to read:

24.19 **424A.10 STATE SUPPLEMENTAL BENEFIT; ~~VOLUNTEER~~ FIREFIGHTERS.**

24.20 Subdivision 1. **Definitions.** For purposes of this section:

24.21 (1) "qualified recipient" means a ~~volunteer~~ firefighter who receives a lump-sum
24.22 distribution of pension or retirement benefits from a ~~volunteer~~ firefighters relief association
24.23 or from the statewide volunteer firefighter plan;

24.24 (2) "survivor of a deceased active or deferred ~~volunteer~~ firefighter" means the surviving
24.25 spouse of a deceased active or deferred ~~volunteer~~ firefighter or, if none, the surviving child
24.26 or children of a deceased active or deferred ~~volunteer~~ firefighter, or, if none, the designated
24.27 beneficiary of the deceased active or deferred ~~volunteer~~ firefighter, or, if no beneficiary has
24.28 been designated, the estate of the deceased active or deferred ~~volunteer~~ firefighter;

24.29 (3) "active ~~volunteer~~ firefighter" means a person who:

25.1 (i) regularly renders fire suppression service, the performance or supervision of authorized
25.2 fire prevention duties, or the performance or supervision of authorized emergency medical
25.3 response activities for a fire department;

25.4 (ii) has met the statutory and other requirements for relief association membership; and

25.5 (iii) is deemed by the relief association under law and its bylaws to be a fully qualified
25.6 member of the relief association or from the statewide volunteer firefighter plan for at least
25.7 one month;

25.8 (4) "deferred ~~volunteer~~ firefighter" means a former active ~~volunteer~~ firefighter who:

25.9 (i) terminated active firefighting service, the performance or supervision of authorized
25.10 fire prevention duties, or the performance or supervision of authorized emergency medical
25.11 response activities; and

25.12 (ii) has sufficient service credit from the applicable relief association or from the statewide
25.13 volunteer firefighter plan to be entitled to a service pension under the bylaws of the relief
25.14 association, but has not applied for or has not received the service pension; and

25.15 (5) "~~volunteer~~ firefighter" includes an individual whose services were utilized to perform
25.16 or supervise fire prevention duties if authorized under section 424A.01, subdivision 5, and
25.17 individuals whose services were used to perform emergency medical response duties or
25.18 supervise emergency medical response activities if authorized under section 424A.01,
25.19 subdivision 5a.

25.20 Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a ~~volunteer~~
25.21 firefighters relief association or by the statewide volunteer firefighter plan of a lump-sum
25.22 distribution to a qualified recipient, the association or retirement plan, as applicable, must
25.23 pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary,
25.24 the relief association must pay the supplemental benefit out of its special fund and the
25.25 statewide volunteer firefighter plan must pay the supplemental benefit out of the statewide
25.26 volunteer firefighter plan. This benefit is an amount equal to ten percent of the regular
25.27 lump-sum distribution that is paid on the basis of the recipient's service as a ~~volunteer~~
25.28 firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A
25.29 supplemental benefit under this paragraph may not be paid to a survivor of a deceased active
25.30 or deferred ~~volunteer~~ firefighter in that capacity.

25.31 (b) Upon the payment by a relief association or the retirement plan of a lump-sum
25.32 survivor benefit to a survivor of a deceased active ~~volunteer~~ firefighter or of a deceased
25.33 deferred ~~volunteer~~ firefighter, the association or retirement plan, as applicable, must pay a

26.1 supplemental survivor benefit to the survivor of the deceased active or deferred ~~volunteer~~
26.2 firefighter from the special fund of the relief association and the retirement plan must pay
26.3 a supplemental survivor benefit to the survivor of the deceased active or deferred ~~volunteer~~
26.4 firefighter from the retirement fund if chapter 353G so provides. The amount of the
26.5 supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed \$2,000.

26.6 (c) For purposes of this section, the term "regular lump-sum distribution" means the
26.7 pretax lump-sum distribution excluding any interest that may have been credited during a
26.8 ~~volunteer~~ firefighter's period of deferral.

26.9 (d) An individual may receive a supplemental benefit under paragraph (a) or under
26.10 paragraph (b), but not under both paragraphs with respect to one lump-sum ~~volunteer~~
26.11 firefighter benefit.

26.12 (e) If a qualified recipient receives more than one lump-sum distribution, the qualified
26.13 recipient is eligible to receive a supplemental benefit or supplemental survivor benefit,
26.14 whichever is applicable, with each lump-sum distribution. Each supplemental benefit shall
26.15 be calculated pursuant to paragraph (a) or (b), as applicable, and shall be subject to a separate
26.16 limit.

26.17 (f) Qualified recipients who elect to receive their lump-sum distribution in installments
26.18 under section 424A.016, subdivision 5, or 424A.02, subdivision 8, are eligible to receive
26.19 one supplemental benefit calculated on the total lump-sum distribution amount under
26.20 paragraph (a) or (b), as applicable.

26.21 Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of
26.22 the amount of supplemental benefits paid under subdivision 2 during the preceding calendar
26.23 year, the ~~volunteer~~ firefighters relief association or the statewide volunteer firefighter plan
26.24 shall apply to the commissioner of revenue by February 15. By March 15, the commissioner
26.25 shall reimburse the relief association for the amount of the supplemental benefits paid by
26.26 the relief association to qualified recipients and to survivors of deceased active or deferred
26.27 ~~volunteer~~ firefighters.

26.28 (b) The commissioner of revenue shall prescribe the form of and supporting information
26.29 that must be supplied as part of the application for state reimbursement. The commissioner
26.30 of revenue shall reimburse the relief association by paying the reimbursement amount to
26.31 the treasurer of the municipality where the association is located and shall reimburse the
26.32 retirement plan by paying the reimbursement amount to the executive director of the Public
26.33 Employees Retirement Association. Within 30 days after receipt, the municipal treasurer
26.34 shall transmit the state reimbursement to the treasurer of the association if the association

27.1 has filed a financial report with the municipality. If the relief association has not filed a
27.2 financial report with the municipality, the municipal treasurer shall delay transmission of
27.3 the reimbursement payment to the association until the complete financial report is filed.
27.4 If the association has dissolved or has been removed as a trustee of state aid, the treasurer
27.5 shall deposit the money in a special account in the municipal treasury, and the money may
27.6 be disbursed only for the purposes and in the manner provided in section 424A.08. When
27.7 paid to the association, the reimbursement payment must be deposited in the special fund
27.8 of the relief association and when paid to the retirement plan, the reimbursement payment
27.9 must be deposited in the retirement fund of the plan.

27.10 (c) A sum sufficient to make the payments is appropriated from the general fund to the
27.11 commissioner of revenue.

27.12 Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided by this
27.13 section is in lieu of the state income tax exclusion for lump-sum distributions of retirement
27.14 benefits paid to ~~volunteer~~ firefighters.

27.15 (b) If the law is modified to exclude or exempt ~~volunteer~~ firefighters' lump-sum
27.16 distributions from state income taxation, the supplemental benefits under this section are
27.17 no longer payable, beginning with the first calendar year in which the exclusion or exemption
27.18 is effective. This subdivision does not apply to exemption of all or part of a lump-sum
27.19 distribution under section 290.032 or 290.0802.

27.20 **EFFECTIVE DATE.** This section is effective July 1, 2024.

27.21 Sec. 23. **REVISOR INSTRUCTION.**

27.22 In Minnesota Statutes, the revisor of statutes shall change the terms "volunteer firefighters
27.23 relief association," "volunteer firefighter relief association," "volunteer firefighters' relief
27.24 association," and "volunteer fire relief association" to "firefighters relief association"
27.25 wherever the terms appear in statutes. The revisor shall make any necessary grammatical
27.26 changes or changes to sentence structure necessary to preserve the meaning of the text as
27.27 a result of the changes.

Exhibit C

06/01/23 10:00 am

PENSIONS

SL/LD

H3286-1A

- 1.1 moves to amend H.F. No. 3286; S.F. No. 3316, as follows:
- 1.2 Page 3, line 17, delete "relief association" and insert "board of trustees"
- 1.3 Page 3, line 20, strike "such" and insert "the"
- 1.4 Page 3, line 25, strike "is not required to provide financial support" and insert "does not
- 1.5 have a minimum obligation"
- 1.6 Page 3, line 28, reinstate "The" and delete the new language
- 1.7 Page 3, line 30, strike "if"
- 1.8 Page 4, line 12, strike the first comma
- 1.9 Page 4, line 13, strike " special fund of the relief association "
- 1.10 Page 4, line 14, delete "requires an increase in the"
- 1.11 Page 4, line 15, before "the" insert "increases, "
- 1.12 Page 4, line 16, strike "and" and insert "on July 31. "
- 1.13 Page 4, line 29, delete "municipal"
- 1.14 Page 4, lines 30 to 31, strike "the board of trustees of the relief association may adopt
- 1.15 an" and insert "any"
- 1.16 Page 4, line 31, after "bylaws " insert "adopted by the board of trustees"
- 1.17 Page 4, lines 32 to 33, strike ". The amendment"
- 1.18 Page 5, line 2, strike "such" and insert "the"
- 1.19 Page 5, line 7, delete "municipal"
- 1.20 Page 5, line 25, strike the first comma

2.1 Page 5, line 28, strike "which" and insert "that" and strike "and" and insert "on July 31.
2.2 "

2.3 Page 6, line 6, delete "service pension" and insert "retirement benefit"

2.4 Page 6, line 7, after "receives" insert ", respectively,"

2.5 Page 6, line 9, strike "independent nonprofit"

2.6 Page 6, after line 13, insert:

2.7 **"ARTICLE 2**

2.8 **MODIFICATION OF INVESTMENT REPORT REQUIREMENT**

2.9 Section 1. Minnesota Statutes 2022, section 424A.095, subdivision 2, is amended to read:

2.10 Subd. 2. **Investment report.** (a) Annually, the state auditor must provide an investment
2.11 report to each relief association that has complied with the reporting requirements under
2.12 section 356.219, subdivisions 1 and 3. The investment report must contain the following
2.13 information:

2.14 (1) the relief association's average annual rates of return for at least the previous one-,
2.15 three-, five-, ten-, 15-, and 20-year periods for which the state auditor has investment
2.16 information;

2.17 (2) the relief association's asset allocation;

2.18 (3) the average annual one-year and ten-year benchmark rates of return;

2.19 (4) the average annual one-year and ten-year rates of return for the statewide volunteer
2.20 firefighter plan;

2.21 (5) the one-year and ten-year average annual rates of return for the State Board of
2.22 Investment supplemental investment fund; and

2.23 (6) a graphical comparison between:

2.24 (i) the relief association's average annual rates of return for the previous year and for
2.25 the previous multiyear periods provided under clause (1); and

2.26 (ii) the average annual rates of return for the same periods for the supplemental investment
2.27 fund's balanced fund or any successor fund.

2.28 (b) The state auditor shall select the benchmark rates of return based on the best practice
2.29 in the industry.

3.1 (c) An officer of the relief association's board of trustees must certify to the state auditor
3.2 that the board reviewed the investment report. The certification must accompany the audited
3.3 financial statements or detailed financial statement under section 424A.014, subdivision 1
3.4 or 2, whichever applies. A copy of the report must be kept on file by the relief association
3.5 and must be available for inspection by any member of the public.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment."

3.7 Page 7, line 24, strike " with a particular "

3.8 Page 7, line 25, strike "fire department, permanently ceases to perform" and before "fire"
3.9 insert "and " and before the comma insert " and"

3.10 Page 7, line 26, strike "duties" and strike "permanently ceases to supervise"

3.11 Page 7, line 27, after "duties" insert " with a particular fire department"

3.12 Page 8, line 24, delete "a fund operated pursuant to" and insert "the general employees
3.13 retirement plan or the public employees police and fire plan under" and delete everything
3.14 after "353" and insert a period

3.15 Page 8, line 25, delete everything before the semicolon

3.16 Page 8, line 27, delete "through"

3.17 Page 8, line 29, delete "a fund operated pursuant to" and insert "the general employees
3.18 retirement plan or the public employees police and fire plan under" and delete everything
3.19 after "353" and insert a period

3.20 Page 8, delete line 30

3.21 Page 9, line 4, strike "the" and before "firefighters" insert "a "

3.22 Page 10, line 22, delete "Any" and insert "A"

3.23 Page 22, lines 4, 5, 8, and 9, strike "volunteer fire" and insert "firefighters"

3.24 Page 23, lines 10 and 11, delete "that"

3.25 Page 24, line 29, strike the old language

3.26 Page 25, strike lines 1 to 19

3.27 Page 25, lines 29 to 30, strike "active or deferred volunteer"

3.28 Page 25, line 32, strike "active" and strike "of a deceased "

3.29 Page 25, line 33, strike "deferred" and strike "firefighter"

- 4.1 Page 26, lines 1, 3, and 26, strike "active or deferred "
- 4.2 Renumber the articles and sections in sequence and correct the internal references
- 4.3 Amend the title accordingly



Exhibit D

Additional Amendments to H.F. 3286

In addition to the amendments proposed by staff with the Legislative Commission on Pensions and Retirement, Office of the State Auditor staff propose the following technical changes to get H.F. 3286 (the 2023 Working Group Bill) in order for 2024:

- Update effective dates to January 1, 2024, as applicable.
- Repeal Section 424A.01, subd. 5a (volunteer emergency medical personnel) as the language is added to the amended Section 424A.01, subd. 1.
- Pages 1 and 2, strike Section 1 (the audit threshold increase, which was passed in a separate bill).
- Page 3, line 14, strike “and” and insert “or”
- Page 5, line 26, strike “special fund of the relief association” and insert “minimum obligation of”
- Page 5, line 27, strike “requires financial support from” and before “under” insert “increases”
-



Exhibit E

DC Plan Investment Allocations

Topic:

Questions have arisen about the period during which investment returns should be allocated to deferred member accounts. The default allocation method set in statute requires that investment returns be credited from the date a member separates from active service and membership until the “accounting date” immediately before the date on which the member commences receipt of the deferred service pension.

The issue is that the term “accounting date” is not defined in statute, and not defined in the bylaws of the majority of defined contribution plans.

Our review of defined contribution plan allocation practices found that many relief associations prorate investment returns for portions of years that a member is deferred. For example, if a deferred member is paid in July 2023, many relief associations allocate investment returns to the member through June 30, 2023.

Unless these partial-year investment return allocations are supported by a bylaw definition of “accounting date,” however, the deferred member in this example would be eligible to receive investment return allocations only through December 31, 2022.

An optional change is below for discussion that would require investment returns to be allocated to member accounts until the account is valued immediately before the final account distribution date.

Optional Change:

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

Subd. 6. **Deferred service pensions.** (a) A "deferred member" means a member of a relief association who has separated from active service and membership and has completed the minimum service and membership requirements in subdivision 2. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) A deferred member is entitled to receive a deferred service pension when the member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and makes a valid written application.

(c) A defined contribution relief association must credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral for all deferred members on or after January 1, 2021. A defined contribution relief association may specify in its bylaws the method by which it will credit interest or



additional investment performance to the accounts of deferred members. Such method shall be limited to one of the three methods provided in this paragraph. In the event the bylaws do not specify a method, the interest or additional investment performance must be credited using the method defined in clause (3). The permissible methods are:

(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;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighters 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 accounting date on which the investment return is recognized by and credited to the special fund.~~

(d) Notwithstanding the requirements of section 424A.015, subdivision 6, bylaw amendments made in accordance with paragraph (c) on or before January 1, 2022, shall apply to members already in deferred status as of January 1, 2021.

(e) Unless the bylaws provide differently, ~~the dates that will be used by a relief association in determining the creditable amount of interest or additional investment performance~~ must be allocated to each deferred member account beginning on the date that the member separates from active service and membership and ending on the last date that the deferred member account is valued before final distribution of the on a deferred service pension shall be as follows:

~~(1) for a relief association that has elected to credit interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or~~

~~(2) for a relief association that has elected to credit interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.~~

Exhibit F

424B.22 RELIEF ASSOCIATION DISSOLUTION AND RETIREMENT PLAN TERMINATION.

Subdivision 1. **Application.** (a) Notwithstanding any laws to the contrary, this section applies to:

(1) the termination of a retirement plan established and administered by a relief association, whether or not the relief association is also dissolved or eliminated; and

(2) the dissolution of a relief association that is not consolidating with another relief association under sections 424B.01 to 424B.10.

This section does not apply to the dissolution of a relief association or the termination of a retirement plan that occurs due to the change in retirement coverage from a retirement plan administered by a relief association to the Public Employees Retirement Association statewide volunteer firefighter plan under section 353G.06.

(b) To terminate a retirement plan, the board of trustees must comply with subdivisions 3, 5 to 11, and, if desired, subdivision 4.

(c) To dissolve a relief association, the board of trustees of the relief association must:

(1) terminate the retirement plan in accordance with paragraph (b);

(2) determine all legal obligations of the special and general funds of the relief association, as required by subdivision 5;

(3) take the actions required by subdivision 12; and

(4) comply with the requirements governing dissolution of nonprofit corporations under chapter 317A.

(d) A relief association that terminates its retirement plan must liquidate its special fund as provided in subdivision 8, but need not liquidate its general fund if the relief association is not being dissolved.

Subd. 2. **Involuntary dissolution and termination.** (a) A relief association is dissolved and the retirement plan administered by the relief association is terminated automatically if:

(1) the fire department affiliated with a relief association is dissolved by action of the governing body of the municipality in which the fire department is located or by the governing body of the independent nonprofit firefighting corporation, whichever applies; or

(2) the fire department affiliated with a relief association has terminated the employment or services of all active members of the relief association.

(b) An involuntary termination of a relief association under this subdivision is effective on the December 31 that is at least eight months after the date on which the fire department is dissolved or the termination of employment or services of all active members of the relief association occurs.

(c) The retirement plan administered by a relief association is terminated automatically if the relief association is dissolved, effective on the date of the dissolution of the relief association.

Subd. 3. **Retirement plan termination date, full vesting, and forfeitures.** (a) Unless subdivision 2 applies, the effective date of the termination of a retirement plan is the date approved by the board of trustees of the relief association. If the board of trustees does not approve a termination date, the effective date of the termination of a retirement plan is the effective date of the dissolution of the relief association or, if the relief association is not being dissolved, the end of the calendar year in which the termination of employment or services of all active members of the relief association occurs.

(b) As of the earlier of the retirement plan termination date or the date on which the termination of employment or services of all active members of the relief association occurs, each participant becomes fully (100 percent) vested in the participant's retirement benefit under the retirement plan, notwithstanding any bylaws or laws to the contrary, except for any retiree in pay status who is receiving a monthly service pension from a relief association described in section 424A.093.

(c) If the relief association is a defined contribution relief association, the account of each participant who becomes 100 percent vested under paragraph (b) shall include an allocation of any forfeiture that is required, under the bylaws of the relief association, to occur on or as of the end of the calendar year during which the termination of the retirement plan is effective, if the participant is entitled to an allocation of forfeitures under the bylaws. Any account so forfeited shall not be included in the retirement benefits that become 100 percent vested under paragraph (b).

Subd. 4. **Benefit increase.** (a) Notwithstanding section 424A.02, subdivision 10, the board of trustees of a relief association may increase the benefit amount under a defined benefit relief association without the consent of the affiliated municipality or independent nonprofit firefighting corporation, as provided in this subdivision.

(b) If the retirement plan being terminated is a defined benefit plan, the board of trustees may approve an amendment to the bylaws of the relief association to increase the lump-sum or monthly pension amount or both the lump-sum and monthly pension amount, if the relief association offers both, up to 125 percent of the maximum lump-sum service pension amount under section 424A.02, subdivision 3, paragraph (a), clause (2), or the maximum monthly service pension amount under section 424A.02, subdivision 3, paragraph (a), clause (1). The amount by which the lump-sum or monthly pension amount is increased must not cause the liabilities of the retirement plan to exceed the value of the assets, after taking into account full vesting as required under subdivision 3 and any administrative expenses.

(c) The board of trustees shall specify whether the benefit increase will apply to only participants who are members active as of the date of the termination of the retirement plan or whether the benefit increase will apply to all participants, including members who are not active as of the plan termination date.

Subd. 5. **Determination of assets and liabilities.** (a) The board of trustees shall determine the following as of the date of termination of the retirement plan:

- (1) the fair market value of the assets of the special fund;
- (2) the present value of each participant's accrued benefit, taking into account full vesting under subdivision 3 and any increased lump-sum or monthly benefit level approved under subdivision 4;
- (3) the present value of any benefit remaining to be paid to each retiree in pay status, if any; and
- (4) administrative expenses incurred or reasonably anticipated to be incurred through the date on which all retirement benefits have been distributed or transferred or, if later, the effective date of the dissolution of the relief association.

(b) The board of trustees shall compile a schedule that includes the following information:

- (1) the name of each participant, including each retiree in pay status to whom a benefit or pension is or will be owed;
- (2) the name of each other benefit recipient to whom a benefit or pension is or will be owed; and

(3) for each individual described in clauses (1) and (2), the amount of the benefit or pension to which the individual is entitled under the bylaws of the relief association, taking into account the changes required or permitted by this section, the corresponding number of years of service on which the benefit or pension is based, and the earliest date on which the benefit or pension would have been payable under the bylaws of the relief association.

(c) If the relief association is dissolving, in addition to the determination under paragraph (a) for the retirement plan, the board of trustees shall determine, as of the effective date of the dissolution of the relief association, the legal obligations of the general fund of the relief association.

Subd. 6. Investment of assets while termination is pending. To minimize the risk of investment losses between the termination date and the date benefits will begin to be distributed, the board of trustees shall invest the assets in the special fund in low-risk investments, to the extent consistent with its fiduciary duty under chapter 356A.

Subd. 7. Allocation of surplus. (a) If the retirement plan is a defined benefit plan and if, after completing the determination of assets, liabilities, and administrative expenses under subdivision 5, there is a surplus, the board of trustees shall transfer to the affiliated municipality the lesser of (1) the amount of the surplus, or (2) the sum of all required contributions, without investment earnings or interest thereon, made by the municipality to the relief association during the year in which the termination of the retirement plan occurs or during the preceding nine years.

(b) If the affiliated municipality did not make any required contributions to the relief association during the current or preceding nine years or if, after the transfer described in paragraph (a), there is surplus remaining, the relief association and the municipality will mutually agree on an allocation between them of the remaining surplus.

(c) If, within 180 days of the date of termination of the retirement plan, the municipality and relief association have not reached an agreement on the allocation of the surplus under paragraph (b), then 50 percent of the surplus shall be retained by the relief association and 50 percent of the surplus shall be transferred to the affiliated municipality.

(d) Any surplus retained by the relief association under paragraph (c) shall be allocated among all participants eligible to share in the surplus in the same proportion that the present value of the accrued benefit for each eligible participant bears to the total present value of the accrued benefits of all participants eligible to share in the surplus, and each eligible participant's benefit, as determined under subdivision 5, paragraph (a), clause (2), shall be increased by the participant's share of the surplus. The board of trustees shall determine eligibility to share in the surplus, which may include all participants and any former participants who, within the last three years or such other number of years as determined by the board of trustees, separated from active service and received their retirement benefit.

If the board of trustees decides to include former participants in the allocation of the surplus, the board of trustees shall modify the method for allocating the surplus to take into account the former participants.

(e) Any amount of surplus transferred to the affiliated municipality under this subdivision may only be used for the purposes described in section 424A.08, paragraph (a) or (b).

Subd. 8. Immediate distribution of retirement benefits and payment of all other obligations. (a) The board of trustees shall liquidate the assets of the special fund and pay retirement benefits and administrative expenses under the retirement plan within 210 days after the effective date of the termination of the retirement plan.

(b) If the retirement plan is a defined benefit plan that pays lump-sum benefits or a defined contribution plan, without regard to whether the participant has attained age 50, each participant and other benefit recipient shall be permitted to elect an immediate distribution or a direct rollover of the participant's benefit to an eligible retirement plan as permitted under section 356.635, subdivisions 3 to 7, if the benefit is an eligible rollover distribution as defined in section 356.635, subdivisions 4 and 5.

(c) If the retirement plan is a defined benefit plan that pays monthly pension benefits, the board of trustees shall, at the election of the participant or other benefit recipient, purchase an annuity contract under section 424A.015, subdivision 3, naming the participant or other benefit recipient, as applicable, as the insured or distribute a lump-sum amount that is equal to the present value of the monthly pension benefits to which the participant or other benefit recipient is entitled. If an annuity is elected by the participant or other benefit recipient, the annuity shall provide for commencement at a date elected by the insured, to be paid as an annuity for the life of the insured. Legal title to the annuity contract shall be transferred to the insured. If a lump sum is elected, the option under paragraph (b) to take an immediate distribution or a direct rollover shall apply.

(d) The board of trustees shall complete the distribution of all assets of the special fund by making any remaining distributions or transfers as required under subdivision 9 on behalf of participants or other benefit recipients who cannot be located or are unresponsive and paying any remaining administrative expenses related to the termination of the plan.

Subd. 9. **Missing participants.** (a) For purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

(b) "Retirement benefit" means:

- (1) the participant's account balance if the retirement plan is a defined contribution plan;
- (2) the participant's lump-sum benefit if the retirement plan is a defined benefit plan that pays a lump sum; or
- (3) an amount equal to the present value of the participant's benefit if the retirement plan is a defined benefit plan that pays a monthly annuity.

(c) "Individual retirement account" means an account that satisfies the requirements of section 408(a) of the Internal Revenue Code which is established by an officer of the relief association in the name of the participant or other benefit recipient at a federally insured financial institution.

(d) If the board of trustees cannot locate a participant or other benefit recipient, the board of trustees shall make a diligent effort to obtain a current address or other contact information as follows:

- (1) send a notice to the address on file for the participant or other benefit recipient using certified mail;
- (2) check with the Minnesota State Fire Department Association, the municipality, and any other employer of the participant;
- (3) check with the participant's designated beneficiary on file with the relief association; and
- (4) use one or more of the Internet search tools that are free of charge.

(e) The board of trustees shall transfer the retirement benefit to an individual retirement account or consider the retirement benefit abandoned and deposit funds in the amount of the retirement benefit with the commissioner of commerce under chapter 345, notwithstanding any laws to the contrary, including

section 345.381, if the board of trustees is unable to locate the participant or other benefit recipient after taking the actions described in paragraph (d) or the participant or other benefit recipient does not elect to receive or rollover a retirement benefit to which the participant or other benefit recipient is entitled.

Subd. 10. Supplemental benefits. Within 60 days after the distribution of benefits under subdivision 8, the municipality or firefighting corporation with which the fire department is affiliated shall pay supplemental benefits under section 424A.10 to each participant and survivor who satisfies the requirements of section 424A.10, subdivision 2, if the participant is at least age 50. The commissioner of revenue shall reimburse the municipality or independent nonprofit firefighting corporation for all supplemental benefits paid as provided in section 424A.10, subdivision 3.

Subd. 11. Notice of retirement plan termination. The board of trustees shall notify the commissioner of revenue and the state auditor that the retirement plan is being terminated no later than 30 days before the effective date of the termination of the retirement plan and provide any information the commissioner or state auditor may require.

Subd. 12. Wind-up of the relief association. The relief association is dissolved effective on the date that the board of trustees completes the following actions:

(1) prepares and files with the state auditor final audited financial statements, pursuant to section 424A.014, subdivision 1, or, if applicable, the certified financial statement, pursuant to section 424A.014, subdivision 2;

(2) liquidates the general fund and settles all legal obligations of the general fund as determined under subdivision 5;

(3) transfers the records of the relief association to the chief administrative officer of the affiliated municipality; and

(4) notifies the commissioner of revenue, the state auditor, and the secretary of state of the dissolution no later than 30 days before the effective date of the dissolution.

History: 2020 c 108 art 12 s 15; 2021 c 22 art 10 s 25-33,35; 2022 c 65 art 4 s 24



Exhibit G

Involuntary Dissolution Draft Changes

Topic:

Questions have arisen about what requirements must be met when a relief association is dissolved, and the retirement plan is terminated automatically when there no longer are any active relief association members. Some have seemed to view the “involuntary dissolution” provision in Section 424B.22 as being a way to dissolve the relief association and terminate the pension plan without needing to complete or comply with the notice, benefit, or reporting requirements of the section.

An optional change for discussion is provided below that would require the relief association’s board of trustees, to the extent practicable, to comply with the requirements of the section. The question for the Working Group to consider is whether this change allows for a dissolution to move forward in instances where a relief association has no active members and may not have an interest in completing the dissolution steps, while also making it clear what steps are expected.

Optional Change:

424B.22 RELIEF ASSOCIATION DISSOLUTION AND RETIREMENT PLAN TERMINATION.

Subd. 2. **Involuntary dissolution and termination.** (a) A relief association is dissolved and the retirement plan administered by the relief association is terminated automatically if:

(1) the fire department affiliated with a relief association is dissolved by action of the governing body of the municipality in which the fire department is located or by the governing body of the independent nonprofit firefighting corporation, whichever applies; or

(2) the fire department affiliated with a relief association has terminated the employment or services of all active members of the relief association.

(b) An involuntary termination of a relief association under this subdivision is effective on the December 31 that is at least eight months after the date on which the fire department is dissolved or the termination of employment or services of all active members of the relief association occurs. The board of trustees must comply with subdivisions 3 and 5 to 11. The board of trustees may comply with subdivision 4. The state auditor shall have the discretion to waive these requirements if the board of trustees requests such waiver in advance and provides adequate demonstration that meeting these requirements is not practicable.

(c) The retirement plan administered by a relief association is terminated automatically if the relief association is dissolved, effective on the date of the dissolution of the relief association.

Public Pension Plan Reforms and IRS Pick-Up Requirements

By: Susan Lenczewski

Under the Internal Revenue Code, employee contributions made to a qualified retirement plan are included in income and considered “after-tax” contributions, unless they are made pursuant to a cash or deferred arrangement (CODA), such as under Section 401(k) of the Code. A governmental employer is not permitted to offer a CODA as part of a tax-qualified, or Section 401(a), plan, unless the plan is a “grandfathered 401(k) plan.”¹ But what about employee contributions that are not elective, that is, employee contributions that are required as a condition of employment?

Enter “pick-up” contributions: Under Code § 414(h)(2), when a governmental employer “picks up” contributions that are otherwise considered employee contributions, the contributions are treated as employer contributions. Employer contributions are not taxed to the employee until the benefit is distributed. For governmental defined benefit pension plans, it is important, from a funding perspective, to receive the contributions “pre-tax” to maximize plan assets. Thus, from both a plan qualification perspective and a funding perspective, ensuring compliance with the pick-up rules is critically important.

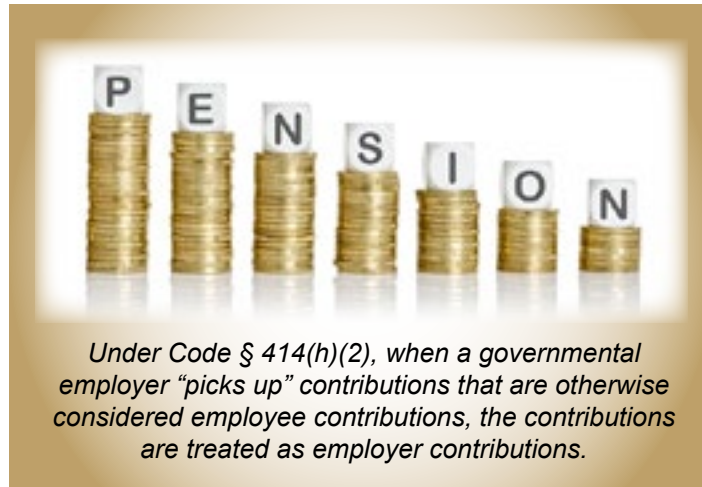
Section 414(h)(2) states, simply, that “... in the case of any [governmental] plan..., where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up shall be treated as employer contributions.” It would appear that all the employer needs to do to “pick up” an employee contribution is to include a statement to that effect in the plan document. For governmental plans, the plan document is typically the governing state statutes or city ordinances.

Not one to miss an opportunity to complicate a simple statutory provision, the IRS has expanded and supplemented the law in a number of revenue rulings and private letter rulings since 1980. Note that the IRS has not chosen to go through the rule-making process in its fine-tuning of the requirements of Section 414(h)(2), a process that would have provided opportunity for public pension plans and governmental entities to provide input on draft regulations. Under the IRS’ current criteria, published in a 2006 revenue ruling, to satisfy the pick-up requirements, a governmental employer must do the following:

1. Specify that the contributions, although designated as employee contributions, are being paid by the employer. For this purpose, the employing unit must take formal action to provide that the contributions on behalf of a specific class of employees of the employing unit, although designated as employee contributions, will be paid by the employing unit in lieu of employee contributions. A person duly authorized to take such action with respect to the employing unit must take such action. The action must apply only prospectively and be evidenced by a contemporaneous written document (e.g., minutes of a meeting, a resolution, or an ordinance); and
2. Not permit a participating employee from and after the date of the “pick-up” to have a cash or deferred election right (within the meaning of Section 1.401(k)-1(a)(3)) with respect to designated employee contributions. Thus, for example, participating employees must not be permitted to opt out of the “pick-up”, or to receive the contributed amounts directly instead of having them paid by the employing unit to the plan.²

The IRS’ second requirement, which has little to do with Section 414(h)(2), slips into a parenthetical the requirements of a detailed regulation under Section 401(k) regarding what does and does not constitute a cash or deferred election. This 401(k) regulation:

- Defines a “cash or deferred election” to include “*any direct or indirect*” election;
- States that the cash alternative includes “some other taxable benefit;”
- Specifies timing rules, that is, the election must precede the date on which the pay is “currently available,” the services for which pay would have been received must precede the date of the contribution, and the election must precede the date of the contribution; and
- Defines a “one-time irrevocable election” to mean an election made “no later than the employee’s first becoming eligible under the plan *or any other plan or arrangement of the employer.*” (Emphasis added.)



Public Pension Plan Reforms and IRS Pick-Up Requirements (*continued*)

As borne out by subsequent private letter rulings, the IRS apparently intends to rigorously apply this 401(k) regulation in its analysis of governmental pick-up contributions.

Additional funding for public pension plans is, for many states, counties, cities, and school districts, either not financially possible or politically not feasible. Therefore, to address the problem of insufficient assets to cover benefit liabilities, many public pension plans are having to consider benefit reforms in order to reduce benefit liabilities. Public pension plans, however, will want to ensure that pension benefit reforms or plan design changes do not cause the plan to fail to comply with the pick-up requirements. To fail to comply means risking, at a minimum, the tax-deferred status of employee contributions, causing current taxation of those contributions and requiring plans to separately account for not yet taxed and already taxed contributions. Having to withhold taxes from an employee contribution before it can be paid to the pension plan will reduce the net contribution and worsen the plan's funded status.

Private letter rulings³ (PLRs) issued since 2006 indicate a predilection on the part of the IRS to interfere with governmental entities' ability to enact benefit reforms. A slightly modified real life example and the application of two PLRs illustrate this potential:

The state sponsors a hybrid plan that requires employees to participate in a defined contribution plan but allows employees to elect to transfer their account to the state's pension plan at any time during the first ten years of employment and be covered under the pension plan. The percentage of salary contributed by employees and employers is identical for both the defined contribution plan and the pension plan, at 5.5% for employee contributions and 6% for employer contributions.

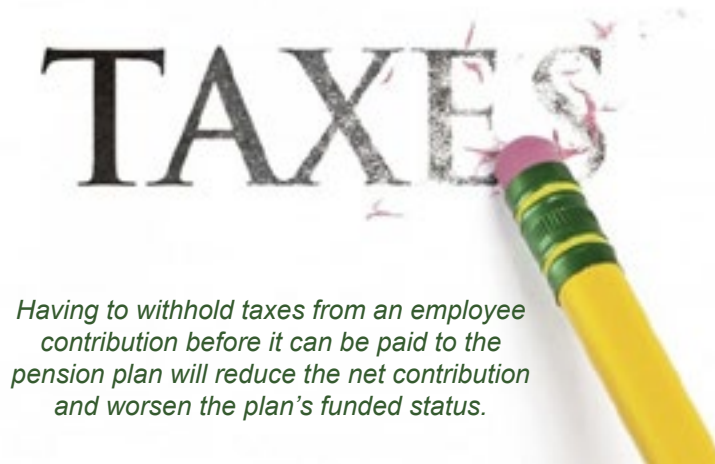
The pension plan is seriously underfunded and is looking at benefit reforms as well as increased contributions. The plan's governing board is proposing an increase of a half percent in the employee contribution rate under the pension plan. The result is that the rate of employee contribution to the pension plan would be 6% of pay, while the rate of employee contribution to the defined

contribution plan would remain at 5.5%. After this change takes effect, an employee electing to transfer to the pension plan from the defined contribution plan would, in effect, be electing to change the rate of employee contribution from 5.5% to 6%.

PLR 201351030 (September 25, 2013) analyzes the impact of being able to transfer from a defined contribution plan to a defined benefit plan, both of which are governmental plans with pick-up contributions. The issue was whether the ability to transfer was a cash or deferred election that would cause the arrangement to violate the pick-up rules. The IRS determined that the transfer did not interfere with the pick-up rules under either plan. The IRS noted that the plans had identical mandatory employee contribution rates and "the employee must necessarily have the same percentage

of his or her compensation contributed by State X on the employee's behalf to [the elected] plan." The PLR does not address whether its conclusion would have been different had the election to transfer from one plan to another also meant a change in the level of employee contribution.

PLR 201532036 (August 7, 2015) analyzes, among several issues, whether plan members' ability to make a one-time irrevocable election to increase their employee contributions from 4% to 5% in year 1 and from 5% to 6% in year 2 and increase their pension multiplier from 1.75% to 1.85% was a cash or deferred arrangement. If the IRS determined that the election was an impermissible CODA, the state statute at issue provided that the employee contribution increases would be automatic and there would be no member election. The IRS reiterated applicable law, which is that a defined benefit plan, such as the plan in this case, could not include a CODA and, even if the plan were a defined contribution plan, it could only include a CODA if the CODA had been adopted prior to May 6, 1986. The IRS held that the election to increase employee contributions was an election to defer receipt of compensation that would otherwise be paid currently, i.e., a CODA. Since that was the IRS ruling, the state statute required employee contribution and multiplier increases,



Public Pension Plan Reforms and IRS Pick-Up Requirements (*continued*)

which the IRS found to be permissible under the pick-up rules because there was no longer any employee election.

Since the pension plan's proposed changes in this example fall somewhere between the facts in the two private letter rulings, it would be risky for the governmental entity to proceed with the proposed changes in the absence of its own private letter ruling. Under the rationale in these PLRs, being able to elect a transfer to a pension plan that results in an increase in the employee contribution rate may be considered by the IRS to be an impermissible CODA and a violation of the pick-up requirements.

Like the state in the example, many states and other governmental units are looking at proposals to install a defined contribution plan to which current employees would be given the opportunity to transfer from their current pension plans. The need for "cost-sharing," that is, requiring employees to contribute, as well as employers, is an omnipresent feature of such proposals. As noted above, however, in order to have pre-tax employee contributions, governmental plans must avoid having the new arrangement look like a CODA and otherwise comply with the pick-up requirements. Other benefit reform proposals, such as permitting employees to elect a lower employee contribution rate, in exchange for a lower multiple in their pension formula, would appear to run afoul of the CODA prohibition and would likely be considered an employee election that violates the pick-up requirements.

If a governmental entity or plan wishes to go forward with benefit reforms that are not clearly compliant with the pick-up rules, it would be wise to delay the effective date of the change until a private letter ruling can be obtained from the IRS that the proposed changes do not impact the qualification of the plan or the treatment of the employee contributions as pick-up contributions.

Alternatively, or additionally, it might be time to raise concerns with associations such as NAPPA, NASRA, or NCSL, and advocate for federal legislation that forces the IRS to actually engage in rule-making with regard to the requirements of Section 414(h)(2). The statutory language provides no specifics on what is meant by an employing unit "picking up" employee

contributions. The IRS has filled the void with revenue rulings and private letter rulings, without the benefit of public input and the other procedural protections of rule-making. Legislation could simply amend Section 414(h)(2) to require the IRS to issue final regulations pursuant to that section by a date certain, such as December 31, 2018. That would jumpstart the process of issuing proposed regulations, allowing a period of public comment and testimony, increased transparency, and development of final regulations informed by governmental plan experts.

Other options for federal legislation, such as allowing all governmental entities to sponsor CODAs, would provide much needed flexibility to legislatures and other governing bodies in reforming their pension systems, but such legislation has little chance of success if it is a revenue loser at the federal level.

As noted by Bloomberg BNA, the PLRs issued over the last few years on pick-up contributions suggest that there may be more going on behind the scenes at the IRS with regard to further restrictions on employee elections among plans or tiers of benefits.⁴ It may be helpful for association representatives to engage

IRS representatives in discussion regarding their concerns and what abuses the IRS has detected that indicate a more restrictive approach to the CODA requirement is needed. Public pension attorneys and other experts may be able to craft other solutions to help the IRS end whatever abuse it is concerned with, but still give needed flexibility to states in enacting benefit reforms.

Susan Lenczewski is the Executive Director of the Legislative Commission on Pensions and Retirement for the State of Minnesota.

ENDNOTES:

¹Under Treas. Reg. § 1.401(k)-1(e)(4), a cash or deferred arrangement adopted by a governmental employer before May 7, 1986, is grandfathered.

²Rev. Rul. 2006-43, 2006-35 I.R.B. 329 (August 28, 2006).

³Private letter rulings are effective only with respect to the specific parties who requested the ruling and may not be relied on or used as precedent by anybody else. Still, PLRs are helpful in interpreting generally applicable guidance, such as a revenue ruling, and as an indication of the IRS' view on a particular issue.

⁴Compensation Planning Portfolio 372-4th Part III. F. (Bloomberg BNA).



If a governmental entity or plan wishes to go forward with benefit reforms that are not clearly compliant with the pick-up rules, it would be wise to delay the effective date of the change until a private letter ruling can be obtained from the IRS that the proposed changes do not impact the qualification of the plan or the treatment of the employee contributions as pick-up contributions.



Exhibit I

Flexible Ratification of Benefit Level Changes

Topic:

Some relief association trustees have asked the Working Group to consider whether authority should be provided to municipal governing boards to pass a single resolution allowing the relief association to set a benefit level, and change the benefit level, as long as the funding ratio remains above a specific percentage (e.g., 105%). This would provide some flexibility for relief associations to make small benefit level changes to respond to market fluctuations, without needing to get municipal ratification for each change.

Some considerations include:

1. When and how frequently should the funding ratio be measured?
2. Should the funding ratio be measured using the mid-year SC Form or the year-end audited numbers?
3. Should there be a limit on how many times a relief association could increase benefits under this flexible authority? Without some limits, a relief association could end up operating at a benefit level significantly higher than the level ratified by the municipality after adopting a relatively small increases over a number of years.
4. Others?

Statute:

424A.092 RELIEF ASSOCIATIONS PAYING LUMP-SUM SERVICE PENSIONS.

Subd. 6. **Municipal ratification for bylaws amendments.** (a) The board of trustees of a relief association may adopt an amendment to the articles of incorporation or bylaws that increases the coverage, service pensions, or retirement benefits provided by the relief association only after preparing an estimate of the expected increase in the financial requirements and the accrued liability resulting from the amendment.

(b) For purposes of this subdivision, "financial requirements" means the amount calculated under subdivision 3, paragraph (c). "Accrued liability" means the amount calculated under subdivision 2 or 2a, as applicable. "Estimate" means the estimate required in paragraph (a).

(c) If the special fund of a relief association to which this section applies does not have a surplus over full funding under subdivision 3, paragraph (c), clause (5), and if the municipality is required to provide financial support to the special fund under this section, the board of trustees of the relief association may adopt an amendment to the articles of incorporation or bylaws that increases the coverage, service pensions, or retirement benefits provided by the relief association. The amendment is not effective until it is ratified by the governing body of the affiliated municipality or independent nonprofit firefighting corporation, as applicable. The governing body may ratify such amendment only if the relief association has delivered to the governing body the estimate described in paragraphs (a) and (b), certified by an officer of the relief association.

(d) If the special fund of a relief association to which this section applies has a surplus over full funding under subdivision 3, paragraph (c), clause (5), and if the municipality is not required to provide financial support to the special fund under this section, the relief association may adopt an amendment to the articles of incorporation or bylaws that increases the coverage, service pensions, or retirement benefits provided by the relief association.

(1) The amendment is effective if the municipality ratifies the amendment.

(2) The amendment is effective without municipal ratification if the amendment satisfies paragraph (e).

(e) An amendment satisfies this paragraph if the estimate described in paragraphs (a) and (b) demonstrates that the amendment will not cause:

(1) the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the surplus over full funding reported in the prior year; and

(2) the financial requirements of the special fund to exceed the expected amount of the future fire state aid and police and firefighter retirement supplemental state aid to be received by the relief association.

(f) If a relief association amends the articles of incorporation or bylaws without municipal ratification under this subdivision, and, subsequent to the amendment, the financial requirements of the special fund of the relief association under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended with municipal ratification.