

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor
Thursday, November 29, 2007
11 a.m. to 1 p.m.

I. Call to Order

Chair Auditor Otto.

II. Review and Approval of Working Group Meeting Minutes

Exhibit A. Draft November 13, 2007 Minutes

III. Old Business

Exhibits B and C. Proposed Draft Legislation Alternatives

- Ancillary Benefit Language/Reductions
- Surviving Spouse Definition

IV. Deferred Interest Issues

Exhibit D. Proposed Draft Legislation Alternatives

- Interest Allocation Method
- Municipal Approval

V. Investment Issues

Exhibits E and F. Proposed Draft Legislation Alternatives

- Title to Assets
- Other Investment Limitation

VI. Return to Service Issues

Exhibit G. Minn. Stat. § 424A.02, subd. 9b

VII. Other Business

- Update on FRPAS

VIII. Next Meeting

Thursday, December 6, 2007
11 a.m. to 1 p.m.
Office of the State Auditor

IX. Adjournment

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Tuesday, November 13, 2007
11 a.m. to 1 p.m.

Members Present

Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Jim Hansen, Minnesota Area Relief Association Coalition Representative
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Larry Martin, Legislative Commission on Pensions and Retirement Director
Tom Nelson, Northfield Fire Relief Association Secretary (defined benefit lump sum plans)
Rebecca Otto, State Auditor
Curt Roberts, Maple Grove Fire Relief Association President (defined contribution plans)
Tim Simon, Elk River City Finance Director
Mike Stroeing, Minnesota State Fire Department Association Representative
Steven Wallner, Watertown City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Ed Dietz, Maplewood Fire Relief Association Treasurer (defined benefit lump sum plans)

Others Present

Wayne Anderson, Coon Rapids Fire Relief Association Representative
Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Craig Hertog, Loretto Fire Relief Association Representative
Mike Miller, Integra Shield Financial Group Representative
Paul Rosen, Pension Analyst
Laura Sayles, DFL House Caucus Research Consultant

The following motions were duly made, seconded and approved:

- RESOLVED to approve the November 1, 2007 Meeting Minutes.
- RESOLVED to recommend that a sub-group of defined contribution plans be established to work on separating Chapter 424A into plan specific sections.
- RESOLVED to eliminate the authority to pay funeral benefits from the Special Fund.
- RESOLVED to allow the "OSA Return" deferred interest option to expire on December 31, 2008.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The Working Group members reviewed the November 1 meeting minutes that had been provided in advance. A motion was made by Jaeger to approve the meeting minutes. Simon seconded the motion and it was adopted unanimously.

III. Old Business

• Ancillary Benefit Language/Reductions

Under current law, ancillary benefits can't be reduced by the vesting percentage maximums found under Minn. Stat. § 424A.02, subd. 2. Some relief associations are reducing ancillary benefits by the statutory percentages, or by other percentages from their bylaws. Jaeger made a motion to change the ancillary benefit language so that benefits can't be reduced (i.e. benefits must be paid at 100 percent), and that a relief association has the authority to set a minimum ancillary benefit that does not exceed five times the annual benefit level. Zikmund seconded the motion.

The Group discussed funding concerns and Martin explained that the liability table used for defined benefit lump sum plans is very conservative and overstates the liability for nearly all members. The only funding concern is the optional five-year minimum ancillary benefit, which isn't reflected in the liability projections. Ganfield suggested that the optional five-year minimum benefit be clarified so that the option is only available for lump sum plans. The option is not feasible for the other plan types.

A vote on Jaeger's motion was held and it was opposed by Stroeing and Nelson. The members agreed that they would feel more comfortable voting on the issue after seeing draft legislation. Nelson made a motion to hold over the topic until the next meeting. Ganfield seconded the motion and it was adopted unanimously. Martin provided a copy of draft legislation that makes the ancillary benefit language easier to read, but does not make any substantive changes. An updated handout will be provided for the next meeting that includes options on changes that could be made to the ancillary benefit provision.

Martin responded to a question about how the changes would impact defined contribution plans and explained that most of the Volunteer Firefighters' Retirement provisions (Chapter 424A) were drafted with defined benefit plans in mind. There was some specific authorization for defined contribution plans in the 1979 language that passed, but defined benefit plans were, and still are, the predominant plan type for relief associations. Martin said that it is unclear what provisions in the Chapter apply to defined contribution plans and which don't. Martin said that it would make sense to have a sub-group work on clarifying the language.

Ganfield made a motion to recommend to the State Auditor that a sub-group of defined contribution plans be established to seek input and work on the issues surrounding Chapter 424A. Jaeger seconded the motion that passed unanimously.

Auditor Otto said that the Office of the State Auditor would convene a sub-group of defined contribution plans to work with Martin and the OSA on clarifying Chapter 424A, and that the sub-group would report back to the Working Group. Martin said that he envisions 424A would have a section that governs defined contribution plans, a section that governs defined benefit plans, and a section with common definitions and provisions.

- **Funeral Benefits**

Auditor Otto explained that if funeral benefits are paid in conjunction with a survivor benefit, the total ancillary benefits usually exceeds the member's total earned service pension. Current law allows a relief association to pay a funeral benefit from its General Fund, or from the Special Fund if the total ancillary benefits paid do not exceed the member's total earned service pension. Stroeing made a motion to restrict funeral benefits so that they can only be paid from the General Fund. This would eliminate the authority to pay funeral benefits from the Special Fund. Jaeger seconded the motion and it was adopted unanimously.

- **Surviving Spouse Definition**

Interest has been expressed by the Working Group members to change the definition of a "surviving spouse." Relief associations aren't always paying survivor benefits consistently with the statutory definition, and the language is confusing. The members have looked at the PERA definition for guidance. Auditor Otto asked about the definitions used by MSRS and TRA. Martin was not sure, but said that he would provide a side by side comparison for the next meeting. Stroeing made a motion to hold over the topic to the next Working Group meeting. Nelson seconded the motion and it was adopted unanimously.

IV. Deferred Interest Issues

- **Expiration of "OSA Return" Option**

One of the current deferred interest options is to pay the rate actually earned as calculated by the Office of the State Auditor, up to five percent. This option is set to expire on December 31, 2008. Not many relief associations have chosen this interest option due to the inherent timing delay. Stroeing made a motion to let the "OSA Return" option expire. Jaeger seconded the motion and it was adopted unanimously.

- **Interest Allocation Method**

Relief associations that pay deferred interest under the "OSA Return" option or the "Board Set" option are required to allocate interest for completed months of deferral. There was general agreement among the members that the allocation method should not be required. Stroeing made a motion to hold over the topic to the next meeting. Jaeger seconded the motion and it was adopted unanimously.

- **Municipal Approval**

This topic was not discussed due to time constraints and will be added to the next meeting agenda.

V. Other Business

Auditor Otto will provide an update on FRPAS at the next meeting. An update on the Statewide Plan proposal (for informational purposes only) will also be given by Zikmund at the next meeting.

VI. Next Meeting Date

The next meeting will be held from 11 a.m. to 1 p.m. on Thursday, November 29, 2007 in the Office of the State Auditor's Conference Room.

VII. Adjournment

A motion was made to adjourn the meeting, which was seconded and approved unanimously. The meeting was adjourned at 1:00 p.m.

Ancillary Benefit Language

Current Minn. Stat. § 424A.001, subd. 9(2):

(2) with respect to any relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated using the service pension amount specified in the bylaws of the relief association and the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Addition to Definitions section: (New)

Minn. Stat. § 424A.001, subd. _____. **Ancillary Benefit.** A benefit other than a service pension permitted by law and provided for in the relief association bylaws.

Alternative #1: (benefits must be paid at 100%)

(2) with respect to any relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated ~~using~~ by multiplying the service pension amount

specified in the bylaws of the relief association at the time of death or disability and by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated ~~(i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2;~~ Permanent disability benefits and survivor benefits must be equal to the member's or former member's total earned service pension; except that the bylaws of any relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Alternative #2: (allows bylaws to set percentages)

(2) with respect to any relief association, The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) pursuant to the percentage amounts specified in the bylaws of the relief association; except that the bylaws of any relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Alternative #3: (omit five times benefit level)

(2) with respect to any relief association, The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2; ~~except that the bylaws of any relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on~~

~~behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.~~

Alternative #4: (only lump sum plans eligible for five times benefit level)
(2) with respect to a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, the relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated;

(3) with respect to any relief association, The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2.; ~~except that the bylaws of any relief association may provide for payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.~~

Alternative #5: (disability added to five times benefit level)
(2) with respect to any relief association, The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for payment of a survivor and/or disability benefit in an amount not to exceed five times the yearly service pension amount specified by the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Alternative Surviving Spouse Definitions

Current definition: For purposes of this chapter, and the governing bylaws of any relief association to which this chapter applies, the term “surviving spouse” means any person who was the dependent spouse of a deceased active member or retired former member living with the member at the time of the death of the active member or retired former member for at least one year prior to the date on which the member terminated active service and membership.

PERA definition: “Surviving spouse” means the spouse of a deceased member or disabilitant who was legally married to the member at the time of death.¹

Alternative #1: For purposes of this chapter and the governing bylaws of any relief association to which this chapter applies, “surviving spouse” means the spouse of a deceased member or disabilitant who was legally married to the member at the time of separation.

Alternative #2: For purposes of this chapter and the governing bylaws of any relief association to which this chapter applies, “surviving spouse” means the spouse of a deceased member or disabilitant who was legally married to the member at the time of death.

Alternative #3: For purposes of this chapter and the governing bylaws of any relief association to which this chapter applies, “surviving spouse” means the spouse of a deceased member or disabilitant who was legally married to the member at the time of separation or death as specified by the governing bylaws or, if the governing bylaws do not specify, at the time of death.

¹ TRA uses an identical definition. MSRS has not defined “surviving spouse.”

Alternative #4: For purposes of this chapter and the governing bylaws of any relief association to which this chapter applies, “surviving spouse” means the spouse of a deceased member or disabilitant who was legally married to the member at the time of separation or death as specified by the governing bylaws or, if the governing bylaws do not specify, at the time of separation.

Deferred Interest Issues

Current Minn. Stat. § 424A.02, subd. 7(d):

Interest under paragraph c, clause (2) or (3), is payable from the first day of the month next following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees or from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, which ever is later, to the last day of the month immediately before the month in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.

Alternative #1:

~~Interest under paragraph c, clause (2) or (3), is payable from the first day of the month next following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees or from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, which ever is later, to the last day of the month immediately before the month in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.~~

Alternative #2:

Interest under paragraph c, clause (2) or (3), is payable from the first day of the month next following the date on which ~~the municipality has approved~~ the deferred service pension interest rate is established by the board of trustees or from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, which ever is later, to the last day of the month immediately before the month in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.

Office of the State Auditor
Memorandum

Title to Assets Language

Current Minn. Stat. § 356A.06, subd. 1: Title to assets. Assets of a covered pension plan may be held only by the plan treasurer, the State Board of Investment, the depository agent of the plan, or of the State Board of Investment. . . .

Suggested Alternative: Title to assets. Assets of a covered pension plan may be held only by the plan treasurer, the State Board of Investment, a security broker or its agent, or the depository agent of the plan or of the State Board of Investment. . . . (comma omitted).

Office of the State Auditor
Memorandum

Authorized Investment Language (in 3 parts) with explanation

Explanation:

Two provisions on the long list authorize relief associations to invest in index or mutual funds. The first authorizes investment in funds that in turn invest only in certain securities authorized on the long list (excluding “Other investments”). The second provision found in the “Other investments” section authorizes investment in any fund not authorized by the first section. Like all investments in the “Other investment” section, these index and mutual funds would be subject to the 20% portfolio cap.

Many relief associations like to invest in mutual funds. Under the current law if a mutual fund has any securities authorized in the “Other investments” section, the entire mutual fund will be classified as an “Other investment” subject to the cap. For instance if an international mutual fund invests 96 % in developed markets and 4 % in emerging markets (which are authorized in the “Other investments” section), 100 % of the mutual fund will be classified as an “Other investments.” This all-or-nothing structure of the statute eliminates many mutual and index funds from consideration by relief associations.

The purpose of the “Other investment” cap is to limit risk. It makes more sense to allocate that portion of the fund that has risky investments to cap calculation, than to include an entire pooled investment when only a small portion of its portfolio is in fact risky.

The proposed amendment would make it clear that only those portions of a mutual or index fund that have “Other investments” should be allocated to the “Other investment” section for the purposes of applying the 20% cap.

Part 1:

Current Minn. Stat. § 356A.06, subd. 7(k)(2):

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

(i) the aggregate value of all investments made according to clause (1) may not exceed 20 percent of the market values of the fund for which the covered pension plan is investing:

Suggested language:

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

(i) the aggregate value of all investments, including allocated amounts of index and mutual funds, made according to clause (1) may not exceed 20 percent of the market values of the fund for which the covered pension plan is investing:

Changes to other parts of the statute in support of Part 1, made for consistency and to prevent confusion:

Part 2:

Current Minn. Stat. § 356A.06, subd. 7(h): Commingled or mutual investments. The covered pension plan may invest in index or mutual funds, including index mutual funds, through bank-sponsored collective funds and shares of open-end investment companies registered under the Federal Investment Company Act of 1940, if the investments of the index or of the mutual fund comply with paragraphs (c) to (j).

Suggested language: Commingled or mutual investments. The covered pension plan may invest in index or mutual funds, including index mutual funds, through bank-sponsored collective funds and shares of open-end investment companies registered under the Federal Investment Company Act of 1940, ~~if the investments of the index or of the mutual fund to the~~ extent these funds comply with paragraphs (c) to (j).

Part 3:

Current Minn. Stat. § 356A.06, subd. 7(k): Other investments. (1) In addition . . . , the covered pension plan may invest funds in:(iii) regional and mutual funds through bank sponsored collective funds and

open-end investment companies registered under the Federal Investment Company Act of 1940 which do not qualify under paragraph (h);

Suggested language: Other investments. (1) In addition . . . , the covered pension plan may invest funds in: . . . (iii) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940 ~~which~~ to the extent a fund or a portion of a fund does ~~de~~ not qualify under paragraph (h);

division shall supersede any prior special law authorization relating to the provision of post-retirement increases.

Subd. 9b. Repayment of service pension in certain instances. If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person shall repay any previously received service pension.

Subd. 10. Local approval of bylaw amendments; filing requirements. (a) Each relief association to which this section applies shall file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor shall disqualify the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding pursuant to section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association pursuant to section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized pursuant to section 69.80 payable from the special fund of the relief association shall be effective until it has been ratified by the governing body or bodies of the appropriate municipalities. If the municipality is not required to provide financial support to the special fund pursuant to this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the prior surplus over full funding and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the future fire state aid to be received by the relief association.

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

Subd. 11. [Repealed, 2000 c 461 art 16 s 13]

Subd. 12. Transfer of service credit to new district. Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' relief association shall be entitled to a nonforfeitable service pension from the

Ancillary Benefit Language/Reductions

Issue: Under current law, ancillary benefits can't be reduced by the vesting percentage maximums found in statute. Some relief associations are reducing the benefits by the statutory percentages, or by other percentages from their bylaws.

- Options:**
1. Change the language so benefits can't be reduced at all (Alternative 1).
 2. Change the language to allow benefits to be reduced, pursuant to a relief association's bylaws (Alternative 2).
 3. Change the language to remove the optional five-year minimum survivor benefit (Alternative 3).
 4. Change the language so that only lump sum plans can establish a minimum survivor benefit (Alternative 4).
 5. Change the language so that relief associations can establish a minimum survivor or minimum disability benefit not to exceed five times the annual benefit level (Alternative 5).
 6. Make no changes and address through education.

Examples:

Alternative	Result
1. Benefits must be paid at 100 percent.	Requires benefits to be paid at years of service times the benefit level.
2. Allows bylaws to set reduction percentages.	Allows benefits to be reduced by vesting percentages or other percentages established in the bylaws.
3. Omit five times benefit level option.	Removes the optional up to five year minimum survivor benefit.
4. Only lump sum plans eligible for five times benefit level option.	Clarifies that only lump sum plans are eligible to establish a minimum survivor benefit, not to exceed five times the annual benefit level.
5. Disability added to five times benefit level option.	Allows relief associations to establish an optional minimum disability benefit, not to exceed five times the annual benefit level.