

Minnesota Volunteer Fire Relief Association

Working Group Meeting

Office of the State Auditor
Tuesday, December 8, 2009
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 10, 2009 Meeting Minutes.

III. Survivor Benefits

Exhibits B through D.

- Order of Payment Change (B)
- Flow Chart (C)
- Sample Beneficiary Designation Form (D)

IV. Review of Working Group Draft Legislation

Return to Service Changes, Exhibits E through G.

- Leaves of Absence Exemption (E)
- Clarification of Vesting Requirements (F)
- Continuation of Monthly Payments (G)

Technical Changes, Exhibits H through O.

- Return to Service Clarification (H)
- Corrections for Deposit Mistakes (I)
- DC Plan Investment Allocations (J)
- DC Plan Ancillary Benefit Correction (K)
- Exemption for Minors Correction (L)
- Plans Covered by Chapter 424A (M)
- Minimum Liquidity Requirements Correction (N)
- Municipal Approval Language (O)

V. Contribution Calculations/Payment Requirements Update

League of Minnesota Cities to Report.

VI. Other Business

- MSRS Deferred Compensation Plan (www.mndcplan.com)

VII. 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 December 7, 2009.

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Tuesday, November 10, 2009
11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Jim Hansen, Minnesota Area Relief Association Coalition Representative
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Tim Simon, Elk River City Finance Director
Steven Wallner, Watertown City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)

Others Present

Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Aaron Dahl, Pension Analyst
Paul Enga, Dayton Fire Relief Association Secretary
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst
Michael Johnson, Pension Analyst
Jeff Legge, Fergus Falls Fire Department Representative
Mike Miller, Integra Shield Financial Group Representative
John Pollard, St. Paul Park Fire Relief Association Treasurer

The following motions were duly made, seconded and approved:

- RESOLVED to approve the October 20, 2009, Working Group Meeting Minutes;
- RESOLVED to form a sub-group to create a record retention schedule for volunteer fire relief associations, to be forwarded to the Records Disposition Panel;
- RESOLVED to remove the exchange traded fund investments topic from the agenda this year and possibly revisit the topic next year;
- RESOLVED to table the topic on allowing rollovers to 401(k) retirement plans until additional information about the MSRS deferred compensation plan is obtained;
- RESOLVED to move forward with reorganizing the survivor benefit language so that the authorization is separate from the benefit eligibility requirements, and to revisit the substantive order of payment issue at the final Working Group meeting after getting input from the monthly plans;

RESOLVED to add a default for lump sum and defined contribution plans that survivor benefits would be paid the designated beneficiary, and if no designated beneficiary to the surviving spouse, and if no designation and no surviving spouse, the benefit would be paid to the estate. The suggestion will be revisited at the next Working Group meeting.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the October 20, 2009, meeting minutes that had been provided in advance. Legge notified the Group of a typo on page three. Simon made a motion to adopt the meeting minutes as corrected. Duncan seconded the motion that was adopted unanimously.

III. Record Retention Schedule Discussion

Auditor Otto explained that relief association trustees have asked for guidance on the retention of records. Relief associations are defined by statute as “governmental entities,” so their records may be considered “governmental records.” Governmental records can only be destroyed as allowed in an approved record retention schedule or upon the approval of the Records Disposition Panel. The Working Group can work to create a general record retention schedule that, if approved by the Records Disposition Panel, could be adopted by relief associations and allow them to destroy certain types of records. The creation of a record retention schedule shouldn’t require a statutory change. Auditor Otto suggested that a small sub-group be formed to work on this project and that the Office of the State Auditor can help facilitate it. Wallner made a motion to convene a sub-group to work on creating a general record retention schedule for volunteer fire relief associations. Ganfield seconded the motion that was adopted unanimously. Anderson, Ganfield, Legge, and Wallner volunteered to serve on the sub-group.

IV. Exchange Traded Fund Investments

Under current law, relief associations are only authorized to invest in exchange traded funds that invest solely in investments that are directly authorized on the expanded list. Exchange traded funds that invest in “other investments,” such as international bonds, emerging market equity, or venture capital, are not authorized. The Working Group received a request last year to consider a change to allow investment in exchange traded funds that invest in “other investments.” The Working Group was concerned about expanding the investment authority. In addition, any changes to this section of statute would affect the large local public pension plans, as well as the volunteer fire relief associations, so would need support from other affected plans. Auditor Otto said that there are a few other investment-related topics that the Working Group may wish to consider. The Group could decide to focus on investments next year and tackle all of the issues at once. Anderson made a motion to remove the exchange traded fund investment

topic from the agenda this year. Duncan seconded the motion that was adopted unanimously.

V. Rollovers to 401(k) Retirement Plans

Relief associations have authority to rollover a service pension or survivor benefit to an Individual Retirement Account (IRA) at the written request of the retiring member or of the surviving spouse. There isn't authority for benefits to be rolled over to a 401(k) plan. Auditor Otto explained that this topic was brought to the Working Group before. The topic is difficult because any change would affect all Minnesota public pension plans and would require research and communication with the IRS. It was explained that this topic originated out of a concern about fees a member may incur when rolling over a service pension or survivor benefit to an IRA. Martin said that there may be an existing option for relief association members that would accommodate the fee concern. The Minnesota State Retirement System (MSRS) offers a deferred compensation plan, and firefighters may be able to rollover their relief association service pension to the plan. Anderson made a motion to table this topic until additional information about the MSRS deferred compensation plan is obtained. Wallner seconded the motion that was adopted unanimously.

VI. Survivor Benefit/Designated Beneficiary

At the last meeting the Working Group discussed a proposal to change the order of payment for survivor benefits. The Group decided to revisit the topic after getting additional feedback from the monthly and monthly/lump sum combination plans. There was concern that the Working Group proposal could increase costs for the monthly plans if a member designated someone as the beneficiary who would be drawing benefits for a longer period of time than actuarially assumed. The draft language was updated to address this concern by allowing the relief association in its bylaws to limit the duration of monthly benefit payments so that the total distribution doesn't exceed the actuarially-determined value of the member's service pension. There was still concern among the monthly and monthly/lump sum representatives on the Working Group about the proposal. Zikmund suggested inviting trustees from the monthly and monthly/lump sum plans to an informal discussion on this topic before the final Working Group meeting. Zikmund made a motion to move forward with reorganizing the survivor benefit language so that the authorization is separate from the benefit eligibility requirements, and to revisit the substantive order of payment issue at the final Working Group meeting after getting input from the monthly plans. Anderson seconded the motion that was adopted unanimously. Duncan proposed adding a default for lump sum and defined contribution plans so that survivor benefits would be paid to the designated beneficiary, and if no designation to the surviving spouse, and if no designation and no surviving spouse, the benefit would be paid to the estate. The proposal will be revisited at the next Working Group meeting. Anderson seconded the motion that was adopted unanimously.

VII. Contribution Calculations/Payment Requirements

There was no additional information to report on this topic. The topic will be revisited at the next Working Group meeting.

VIII. Other Business

There was no other business.

IX. Next Meeting

Tuesday, December 8, 2009

11 a.m. to 1 p.m.

Office of the State Auditor

X. Adjournment

The meeting was adjourned at 1:00.

Exhibit B

Issue:

Relief association trustees and members have expressed a desire to change the payment order for survivor benefits for a variety of reasons (trusts as beneficiaries, spouse at time of death vs. at time of separation issues, relief associations having to find any possible surviving children of the former member, and others).

Current Law:

Currently, survivor benefits must be paid to the surviving spouse and surviving children. If there is no surviving spouse and there are no surviving children, the benefit is paid to the designated beneficiary. If there are no survivors and there is no designated beneficiary, the benefit is paid as a death benefit to the estate of the deceased *active* or *deferred* firefighter. If a retired firefighter receiving monthly benefits passes away and there is no surviving spouse, no surviving children, and no designated beneficiary, the benefit payments cease.

Options:

At the last meeting, the Working Group discussed changing the order of payment for survivor benefits so that benefits could be paid directly to a designated beneficiary. This change raised cost concerns that are unique to the monthly and monthly/lump sum plans. The following changes are proposed based on our discussions during the last meeting and with the monthly and monthly/lump sum plans:

1. Leave the order of payment for survivor benefits as it currently is in statute.
2. Add language that would allow a spouse to waive his or her right to the survivor benefit if there are no surviving children, so that the benefit could be paid directly to a designated beneficiary. (Option #1 on pages 4 and 5)
3. Add language that would allow monthly and monthly/lump sum plans to limit the duration of survivor benefit payments so that the total distribution doesn't exceed the actuarially-determined value of the member's service pension. (Option #2 on page 4)
4. Remove the definition of a "surviving spouse" to address concerns among the monthly plans about the timing of when a spouse is defined (at the time of the member's separation or at the time of the member's death). (Page 5)
5. Add language that would allow the survivor benefit to be paid to a trust if the trust is payable to the surviving children and there is no surviving spouse. (Option #3, Pages 4 and 5)
6. Reorganize the statute so that the authorization to pay survivor benefits is separate from the benefit eligibility and calculation requirements.

Optional Changes:

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

...

Subd. 3. Authorized disbursements from the special fund.

(a) Disbursements from the special fund may not be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits if authorized and paid under law and specified in amount in the bylaws governing the relief association ~~to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid under law and specified in amount in the bylaws governing the relief association;~~

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

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

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

~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump sum volunteer fire relief association, or for a combination lump sum and monthly benefit volunteer fire relief association where a lump sum service pension has been elected by or a lump sum benefit is~~

~~payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.~~

...

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

...

Subd. 9. Limitation on ancillary benefits.

A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit 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 by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, 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 without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

(3) If a survivor benefit is payable, the benefit must be paid to (i) the surviving spouse and surviving child or children of the deceased firefighter; (ii) or if no

surviving spouse and no surviving children, to designated beneficiaries of the deceased firefighter; (iii) and if no designation has been made, the survivor benefit must be paid in the form of a death benefit to the estate of the deceased active or deferred firefighter. [OPTION #1] If there are no children, a firefighter's spouse may waive in writing any right to the survivor benefit, so that the benefit is payable to the deceased firefighter's designated beneficiaries.

(4) [OPTION #2] For purposes of this section, the duration of survivor benefit payments may be limited by the relief association bylaws so that the total survivor benefit distribution does not exceed the actuarially-determined value of the deceased firefighter's service pension if the deceased firefighter elected a monthly benefit service pension or where a monthly benefit is payable.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B. [OPTION #3] If a deceased firefighter had established a trust under chapter 501B as authorized by this section and there is no surviving spouse but there is a surviving child or children, and if the trust was designated as the deceased firefighter's beneficiary and the trust is payable to the surviving child or children, the survivor benefit may be paid to the trust notwithstanding any requirements of this section.

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

...

Subd. 7. Limitation on ancillary benefits.

(a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested or nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c) If a survivor benefit is payable, the benefit must be paid to (i) the surviving spouse and surviving child or children of the deceased firefighter; (ii) or if no surviving spouse and no surviving children, to designated beneficiaries of the deceased firefighter; (iii) and if no designation has been made, the survivor benefit must be paid in the form of a death benefit to the estate of the deceased active or deferred firefighter. [OPTION #1] If there are no children, a firefighter's spouse may waive in writing any right to the survivor benefit, so that the benefit is payable to the deceased firefighter's designated beneficiaries.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a designated beneficiary may be a trust created under chapter 501B. [OPTION #3] If a deceased firefighter had established a trust under chapter 501B as authorized by this section and there is no surviving spouse but there is a surviving child or children, and if the trust was designated as the deceased firefighter's beneficiary and the trust is payable to the surviving child or children, the survivor benefit may be paid to the trust notwithstanding any requirements of this section.

...

424A.001 DEFINITIONS.

...

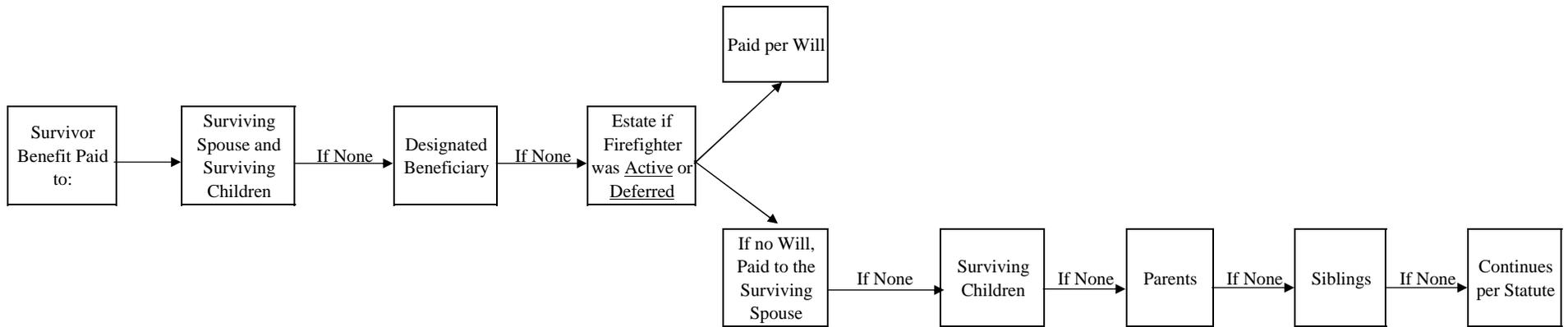
~~Subd. 6. Surviving spouse.~~

~~For purposes of this chapter, and the bylaws governing a relief association to which this chapter applies, "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.~~

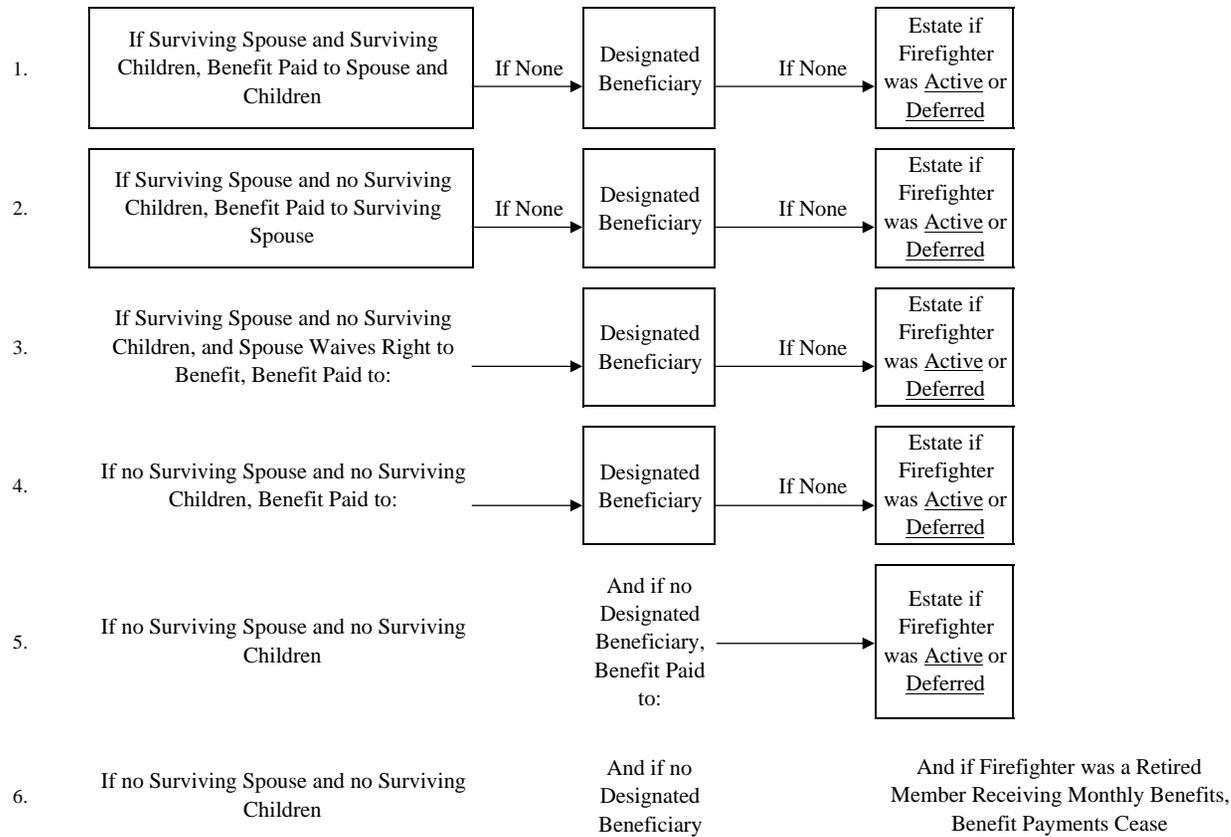
...

Order of Payment for Survivor Benefits

Current Law:



Different Scenarios under Optional Change:



**Volunteer Firefighter Relief Association
DESIGNATION OF BENEFICIARY**

Member's Name: _____

Social Security Number: _____

Address: _____

Spouse's Name: _____

Spouse's Date of Birth: _____

Instructions

This Designation of Beneficiary Form is effective upon receipt by the Volunteer Firefighter Relief Association and supersedes all prior designations. In designating beneficiaries, use full, proper names. If a trust is named as a beneficiary, include its name, the date the trust was established and its address. This Designation of Beneficiary is subject to the Laws of Minnesota.

A. I hereby designate the following as my Primary Beneficiary(ies):

PRIMARY BENEFICIARY

Name	Relationship	SSN	Date of Birth	Percentage

Must equal 100%*

B. In the event there is no primary beneficiary(ies) at my death, I hereby designate the following as contingent beneficiary(ies):

CONTINGENT BENEFICIARY

Name	Relationship	SSN	Date of Birth	Percentage

Must equal 100%

I have completed, understand and agree to all (2) pages of this Designation of Beneficiary Form. I hereby revoke all prior designations (if any) of primary and contingent beneficiaries.

Member's Signature

Date

* When more than one beneficiary is designated and no percentage is specified, payment to each surviving beneficiary will automatically be made in equal shares, or 100 percent to the last surviving beneficiary.

C. Current Marital Status: The member and the spouse should both sign this form when designating someone other than the spouse as a primary beneficiary. Failure to obtain the spouse's witnessed signature may result in the automatic designation of the spouse as beneficiary.

Check one:

_____ I **am not** married. I understand that if I become married in the future, this form may automatically cease to apply and I should file a new Designation of Beneficiary.

_____ I **am** married. If my spouse is not the only Primary Beneficiary, my spouse has signed the consent on the bottom of this form. I understand that, if my marital status changes, this Designation may remain in effect until I file a new Designation.

Member Signature

Date

GOVERNMENT DATA PRACTICES NOTICE: The data you supply on this form will be used by the Relief Association to process your benefit application. You are not legally required to provide this data, but if you do not provide it, the Relief Association may not be able to properly process your benefit application.

D. Consent by Spouse

I certify that I am the spouse of the member named at the beginning of this form. I have read the form as completed and signed by my spouse. I hereby consent to the Designation of Beneficiary. I acknowledge that, to the extent anyone other than me is designated as a Primary Beneficiary, I am waiving any rights that I may otherwise have to receive benefits from the Volunteer Firefighter Relief Association after my spouse's death.

Spouse's Signature

Date

Subscribed before me on this _____ day of _____, 20__

County of: _____

State of: _____

Notary Public's signature: _____

Exhibit E

Topic:

Any firefighter who has a break in service of at least 60 days is subject to the new return-to-service law if the firefighter resumes active service and membership. The optional changes provided below exempt from the minimum period of resumption service requirement firefighters with an approved leave of absence (not to exceed one year), and firefighters with a break in service (not to exceed one year) if the firefighter hasn't been paid a benefit and if approved by the relief association board.

Option No. 1:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subd. 6. Return to active firefighting after leave of absence or break in service.

(a) If a firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the firefighter may again become an active member of the relief association. A firefighter who returns to active service and membership is subject to the service pension calculation requirements under this section.

(1) A firefighter who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(2) A firefighter who has a break in service not exceeding one year but has not been granted an approved leave of absence and who has not received a service pension or disability benefit may be made exempt from the minimum period of resumption service requirement of this section by the relief association board of trustees.

...

Option No. 2:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subd. 6. Return to active firefighting after leave of absence or break in service.

(a) If a person who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief

association. A person who returns to active service and membership is subject to the service pension calculation requirements under this section.

(1) A person who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(2) A person who has a break in service not exceeding one year but has not been granted an approved leave of absence and who has not received a service pension or disability benefit may be made exempt from the minimum period of resumption service requirement of this section by the relief association board of trustees.

Exhibit F

Topic:

The return-to-service legislation that was passed last session requires that members return to active service for at least a minimum period of time in order to accrue service credit with the relief association for the service performed after their return. Members must meet the vesting requirements to be paid a service pension, and it appears that the intent of the Working Group last year was to have members who resume active service and membership after retirement and receipt of a service pension “start over.” It is unclear in the legislation that was passed whether members who resume active service and membership after retirement and receipt of a service pension must meet both the minimum period of resumption of service and the vesting requirements in order to be eligible for a second service pension, or just the minimum period of resumption of service. The Optional Change provided below is based on the Working Group’s September 22 and October 6 meeting discussions.

Current Law:

The current law requires members that return to active service and membership after retirement to meet the minimum period of resumption service before a second cessation of duties in order to be eligible for a second service pension. It is not clear that the member must meet the relief association’s vesting requirements to be eligible for the second service pension.

Option:

The Optional Change provided below requires that retirees meet the relief association’s minimum vesting requirements to be eligible for a second service pension, and are not subject to a separate minimum period of resumption of service.

	Vesting Requirement	Resumption Period Requirement
Current Law	Unclear	Yes
Optional Change	Yes	No

Optional Change:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS’ RELIEF ASSOCIATION.

Subd. 6. Return to active firefighting after break in service.

(a) If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief association.

(b) ~~If a former firefighter who has received a service pension or disability benefit A firefighter who~~ returns to active relief association membership under paragraph (a), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets ~~a the~~ minimum ~~period of resumption service specified in the relief association bylaws~~ service requirements of section 424A.02, subdivision 2 or section 424A.016, subdivision 3.

(c) ~~If a former firefighter who has not received a service pension or disability benefit A firefighter who~~ returns to active relief association membership under paragraph (a), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets ~~a the~~ minimum period of resumption service specified in the relief association bylaws and the service requirements of section 424A.02, subdivision 2 or section 424A.016, subdivision 3.

~~(d-e)~~ A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph (b) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(e-d)~~ A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(~~f~~-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(~~g~~-f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2 or 424A.016, subdivision 3, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

Exhibit G

Topic:

If a member is receiving a monthly service pension and resumes active service and membership under the new return-to-service law, the member's monthly pension payments must cease during the member's period of resumption service. The member's monthly pension payments resume upon the member's subsequent cessation of firefighting duties, and the member would be eligible for an additional monthly pension if the member met the minimum period of resumption service (or minimum vesting requirement). The monthly payments that ceased while the member was active during the resumption period are "lost." The Optional Change provided below is based on the Working Group's September 22 meeting discussion.

Options and Considerations:

1. The Optional Change provided below would allow monthly retirees to continue receiving monthly service pension payments during their resumption period of active service if they return to active relief association membership. Members would be eligible for a second service pension if they meet the applicable requirements.
2. The Optional Change provided below only applies to monthly retirees who return to active fire department service and active relief association membership. If a monthly retiree returns to active service with the fire department but doesn't resume active membership in the relief association, Section 424A.02, subd. 1 would require that the relief association stop paying the monthly benefit during the member's resumption period of service.

Optional Change:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subd. 6. **Return to active firefighting after break in service.**

...

(e) If the bylaws so provide, a firefighter who returns to active relief association membership under paragraph (a) may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under Chapter 424A.

~~(f-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent~~

cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. ~~The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service.~~ If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(~~g~~f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

Exhibit H

Technical Change: Return to Service Clarification

While reviewing suggested changes to the return to service provision Pension Commission staff and Office of the State Auditor staff discussed adding language to make it clear that members with a federally protected leave are not subject to the return to service requirements. Draft language is provided below that would make this clarification.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

...

Subd. 6. **Return to active firefighting after break in service.**

(a) The provisions of this section apply to all breaks in service, except breaks in service governed by federal or state law.

~~(b-a)~~ If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the firefighter person may again become an active member of the relief association.

~~(c-b)~~ A firefighter described in paragraph (a) who returns to active relief association membership under paragraph ~~(b-a)~~ may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets a minimum period of resumption service specified in the relief association bylaws.

~~(d-e)~~ A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph ~~(c-b)~~ must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(e-d)~~ A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph ~~(b-a)~~, who does not qualify for a service pension under paragraph ~~(c-b)~~, but who does meet the minimum service

requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(f-e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (b-a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (c-b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(g-f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (b-a), who does not qualify for a service pension under paragraph (c-b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

Exhibit I

Technical Change: Corrections for Deposit Mistakes

424A.05 Relief association special fund.

...

Subd. 3(b) **Corrections of Erroneous Special Fund Deposits.** Upon notification of funds deposited in error in the special fund and after presentation of evidence that the error occurred in good faith, the state auditor may require the provision of a written legal opinion concluding the transfer of funds from the special fund is consistent with federal and state law. Taking into consideration the evidence of good faith and the legal opinion, if any, the state auditor may order the transfer from the special fund to the appropriate fund or account an amount equal to the funds deposited in error.

Exhibit J

Technical Change: DC Plan Investment Allocations

There is clear authority for active and deferred members of defined contribution plans to receive investment allocations, but not for inactive members. The language provided below would provide authority for defined contribution plans to credit inactive members with investment returns as defined by the relief association bylaws.

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

...

Subd. 4. **Individual accounts.**

(a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

(1) any amounts of fire state aid received by the relief association;

(2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and

(3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) The relief association, if the bylaws so permit and as the bylaws define, may credit any investment return on the assets of the special fund to the accounts of inactive members.

(d-e) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation

method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

(~~e-d~~) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

(~~f-e~~) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

...

Exhibit K

Technical Change: DC Plan Ancillary Benefit Correction

One of the Working Group's major accomplishments last year was to create separate sections in Chapter 424A for defined contribution plans and for defined benefit plans. When the defined contribution plan language was reorganized the ancillary benefit language wasn't drafted as intended. The language states that ancillary benefits for active members must equal the vested *or* nonvested amount of the member's account, while it should be equal to the vested *and* nonvested amounts. The language provided below would correct the drafting error.

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

...

Subd. 7. **Limitation on ancillary benefits.**

(a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested and ~~or~~ nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

...

Exhibit L

Technical Change: Exemption for Minors Correction

One of the Working Group's changes last session was to add an exemption to the prohibition on minors participating with the fire department, for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision. There was a mistake when the bill was drafted and the exemption was added to the wrong section. The language provided below would correct the drafting mistake.

420.20 PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. **Minors.**

~~(a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a firefighter, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.~~

~~(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.~~

...

1.1 **CLARIFICATION OF THE APPLICABILITY OF**
1.2 **MINNESOTA STATUTES, CHAPTER 424A**

1.3 moves to amend S.F. No. ; H.F. No., as follows:

1.4 Page .., after line .., insert:

1.5 "Sec. Minnesota Statutes 2009 Supplement, section 424A.001, is amended by
1.6 adding a subdivision to read:

1.7 Subd. 11. **Volunteer firefighter relief association.** (a) "Volunteer firefighter relief
1.8 association" means a nonprofit corporation that provides service pensions to volunteer
1.9 firefighters and that is governed by sections 69.771 to 69.775.

1.10 (b) "Volunteer firefighter relief association" does not mean the Bloomington Fire
1.11 Department Relief Association governed by section 69.77; Minnesota Statutes 2000,
1.12 chapter 424; and Laws 1965, chapter 446, as amended, the Minneapolis Firefighters Relief
1.13 Association governed by section 69.77 and chapter 423C, the Virginia Fire Department
1.14 Relief Association governed by section 69.77, and Laws 1953, chapter 399, as amended,
1.15 or the voluntary statewide lump-sum volunteer firefighter retirement plan governed by
1.16 Minnesota Statutes, chapter 353G."

1.17 Renumber the sections in sequence and correct the internal references

1.18 Amend the title accordingly

Exhibit N

Technical Change: Minimum Liquidity Requirements Correction

There are minimum liquidity requirements for relief associations to ensure that they have enough money invested in short-term obligations that can be immediately liquidated without substantial penalty to pay benefits as they come due. The statutory reference in the minimum liquidity requirements provision is incorrect. The provision currently covers relief associations investing under the “short list” of authorized investment securities, while it should cover relief associations investing under the “long list.” The language provided below would correct the statutory reference.

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

...

Subd. 8. Minimum liquidity requirements.

A covered pension plan described by subdivision 6 or 7, ~~paragraph (a)~~, in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

...

Exhibit O

Technical Change: Municipal Approval Language

State statute defines when relief associations are required to obtain municipal or independent nonprofit firefighting corporation ratification for benefit changes, and when a relief association may increase its benefit level without ratification. There are provisions in Chapter 424A and in Chapter 69 that define these requirements. The language in Chapter 424A isn't exactly the same as in Chapter 69, which has caused confusion. The language provided below would have Chapter 424A to refer to the requirements in Chapter 69.

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

...

Subd. 10. Local approval of bylaw amendments; filing requirements.

(a) Each defined benefit relief association to which this section applies must 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 disqualifies 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 under 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 under 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 under section 69.80 payable from the special fund of the relief association is effective until it has been ratified as required under section 69.772, subdivision 6, or 69.773, subdivision 6 by the governing body or bodies of the appropriate municipalities. If the special fund of the relief association has a surplus over full funding under section 69.772, subdivision 3, or 69.773, subdivision 4, and if the municipality is not required to provide financial support to the special fund under 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 if authorized under section 69.772, subdivision 6 or 69.773, subdivision 6 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 surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the subsequent calendar year's 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 under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund 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 without municipal ratification, and any service pensions or ancillary benefits payable after that date must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

...

69.772 RELIEF ASSOCIATIONS PAYING LUMP SUM SERVICE PENSIONS.

...

Subd. 6. Municipal ratification for plan amendments.

If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and ~~or~~ if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 3,

clause (2), subclause (e), and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as 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 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 of the relief association pursuant to 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 without municipal ratification 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 or adopted with municipal ratification.

69.773 RELIEF ASSOCIATIONS PAYING MONTHLY SERVICE PENSIONS.

...

Subd. 6. Municipal ratification for plan amendments.

If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 4, ~~and or~~ if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage

provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of 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 of the relief association pursuant to 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 without municipal ratification 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 or adopted with municipal ratification.

...