

# **Minnesota Volunteer Fire Relief Association Working Group Meeting**

Office of the State Auditor  
Wednesday, January 22, 2014  
11 a.m. to 1 p.m.

## **I. Call to Order**

*Chair Auditor Otto.*

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

Exhibit A. Draft December 18, 2014 Meeting Minutes

## **III. Final Review of Approved Changes**

Exhibits B through F.

- DC Inactive Member Ancillary Benefits (B)
- DC Account Maintenance for Return to Service Members (C)
- Pension Calculation Clarification (D)
- Supplemental Benefit Technical Change (E)
- Technical Changes (F)

## **IV. Review of Pending Changes**

Exhibits G and H.

- Exceptions to Report by Certain Municipalities (G)
- Definition of Municipality (H)

## **V. Review of Additional Technical Changes**

Exhibits I through L.

- Nonprofit Firefighting Corporations Correction (I)
- Consolidating Relief Associations Citations (J)
- Board of Trustees Reference (K)
- Accountant Terminology Update (L)

## **VI. Continuation of Training Discussion**

## **VII. Other Business**

## **VIII. Next Meeting**

## **IX. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by January 20, 2014.

# **Volunteer Fire Relief Association Working Group**

Office of the State Auditor  
Wednesday, December 18, 2013  
11 a.m. to 1 p.m.

## **Members Present**

Steve Donney, City of Harmony Mayor  
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)  
Dennis Feller, City of Lakeville Finance Director  
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)  
Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)  
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)  
Larry Martin, Legislative Commission on Pensions and Retirement Director  
Rebecca Otto, State Auditor  
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)  
Mark Rosenblum, Minnesota State Fire Department Association Representative (defined benefit lump sum plans)

## **Others Present**

Bill Braun, Woodbury Fire Relief Association Representative  
Mary Chamberlain, Abdo, Eick & Meyers Representative  
Aaron Dahl, Office of the State Auditor Pension Analyst  
Celeste Grant, Deputy State Auditor/General Counsel  
Rose Hennessy Allen, Office of the State Auditor Pension Director  
Jim Jensen, Office of the State Auditor Pension Analyst  
Amber Kollman, Office of the State Auditor Pension Intern  
Mike Luger, Eden Prairie Fire Relief Association Representative  
Brian McKnight, Wells Fargo Advisors Representative

The following motions were duly made, seconded and approved:

- RESOLVED to approve the November 20, 2013, Working Group Meeting Minutes;
- RESOLVED to approve the revised draft language authorizing a defined contribution plan to, through its bylaws, allow ancillary benefit payments to individuals who are inactive or who have separated before becoming vested;
- RESOLVED to approve the concept of updating the definition of “municipality” for relief association pension purposes; and
- RESOLVED to approve the revised draft language clarifying that all service pensions and ancillary benefits are calculated based on the statute, law, and governing documents in effect when the member separates from active service.

**I. Call to Order**

Chair Auditor Otto called the meeting to order.

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

The members reviewed the November 20, 2013, meeting minutes that had been provided in advance. Feller made a motion to approve the meeting minutes. Duncan seconded the motion that then was adopted unanimously.

**III. Continuation of New Audit Threshold Discussion**

The Group reviewed additional information that had been requested during the last meeting about the new audit threshold and reporting trends. The Group discussed whether the March 31 reporting deadline should be changed. It was agreed that the Group would wait to suggest any changes until after the new audit threshold has been in place for a reporting cycle. The Group discussed accountant certification requirements for those relief associations that do not have the audit requirement. Auditor Otto said that the Office of the State Auditor would provide education regarding the new threshold and the requirements for those performing the accountant certification.

**IV. Review of Draft Language for Defined Contribution Plans**

The Group reviewed draft language that would authorize a defined contribution plan to, through its bylaws, allow ancillary benefit payments to individuals who are inactive or who have separated before becoming vested. Martin suggested inserting the phrase “or on behalf of” to include payments made on behalf of a member to the member’s beneficiary. Zikmund made a motion to adopt the draft language as amended. Johnston seconded the motion, which was adopted unanimously.

**V. Review of Draft Language for the Definition of Municipality**

Auditor Otto explained that questions have arisen regarding municipal ratification requirements for relief associations affiliated with an independent nonprofit firefighting corporation. During the first Working Group meeting this fall it was noted that similar issues may exist for relief associations affiliated with a joint powers entity and for those affiliated with a fire district.

Based on the definition of “municipality” that is used for relief association pension purposes, it appears that each municipality which contracts with an independent nonprofit firefighting corporation may be required to ratify relief association bylaw changes and deferred interest rates. The Group agreed that if the independent nonprofit firefighting corporation is the entity responsible for paying required contributions to the affiliated relief association, the board of the independent nonprofit firefighting corporation should be the entity that ratifies relief association bylaw and interest rate changes.

Feller asked what would happen if an independent nonprofit firefighting corporation or a joint powers entity did not pay its required contribution to the affiliated relief association. Feller noted that it would be an issue if the entity that levies taxes to pay for the required

contribution does not have authority to choose whether to approve relief association bylaw changes.

Zikmund made a motion to adopt the draft language in Optional Change #2 that was provided for the Group's review. Hemstad seconded the motion. Auditor Otto said that the language would be revised to address Feller's concerns and would be revisited at the next meeting. The motion was adopted unanimously.

**VI. Discussion of Pension Calculation Clarification**

The deferred service pension statutes specify that the deferred service pension is governed by and must be calculated under the statute, law, articles of incorporation, and bylaws that are effective on the date that a member separates from active service. Auditor Otto explained that similar language would be helpful for service pensions paid to active members and for ancillary benefit payments. The Group agreed that adding similar language for service pensions and ancillary benefits would be a good clarification. Martin recommended adding a head note to the subdivision, such as "Governing Benefit Plan Provisions." Zikmund made a motion to adopt the draft language, as amended. Ganfield seconded the motion, which was adopted unanimously. Auditor Otto said that the Group would have the opportunity to review the language and head note again at the next meeting.

**VII. Continuation of Fiduciary Duties and Responsibilities**

The Group continued its discussion on fiduciary duties and responsibilities. The Group reviewed the list of statutory fiduciary duties, and discussed the degree of care with which the duties must be undertaken. It was agreed that relief association trustees need additional opportunities for training. A training sub-committee was formed consisting of Duncan, Feller, Ganfield, Hemstad, McKnight, and Zikmund that will meet during the interim. Auditor Otto asked the Group to come to the next Working Group meeting prepared to discuss training locations and topics, and the ideal time of day, appropriate session length, and number of training sessions. It was requested that any future training sessions be videotaped and the videos be made available online for those who may not be able to attend.

**VIII. Other Business**

There was no other business.

**IX. Next Meeting**

Wednesday, January 22, 2014  
11:00 a.m. to 1:00 p.m.  
Office of the State Auditor

**X. Adjournment**

The meeting was adjourned shortly after 1:00.

**Exhibit B**  
**Defined Contribution Plan**  
**Inactive Members and Ancillary Benefits**

**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 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 the bylaws so permit and as the bylaws define, the relief association may pay an ancillary benefit to, or on behalf of, a member who is not active or deferred.

(d) (1) If a survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

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

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

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

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

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

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a trust created under chapter 501B may be a designated beneficiary. If a trust payable to the surviving children organized under chapter 501B has been established as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding the requirements of this section.

**Exhibit C**  
**Defined Contribution Plan**  
**Update for Conformity with Return to Service Law**

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

(d) 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. Amounts forfeited under subdivision 4 prior to a resumption of active service and membership under section 424A.01, subdivision 6, remain forfeited and will not be reinstated upon the resumption of active service and membership. 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) 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) 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 D**  
**Pension Calculation Clarification**

**424A.015 GENERALLY APPLICABLE VOLUNTEER  
FIREFIGHTERS' RELIEF ASSOCIATION PENSION PLAN  
REGULATION.**

...

Subd. 6. **Governing Benefit Plan Provisions.** A service pension or ancillary benefit payable under this chapter is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

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

...

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

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

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

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

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

(3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the accounting date on which the investment return is recognized by and credited to the special fund.

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

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

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

~~(e) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.~~

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

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

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

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

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

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

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

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

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

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

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

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

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

~~(h) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.~~

## Exhibit E

# Supplemental Benefit Technical Change

### **424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.**

...

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

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association and the retirement plan must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed \$2,000.

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

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

## Exhibit F Technical Changes

### **Technical Change #3:**

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

...

##### **Subd. 3. Flexible service pension maximums.**

(a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 424A.092, subdivision 4, or 424A.093, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit relief association shall calculate and certify to the governing body of the applicable ~~qualified~~ municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing includes any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 424A.092, subdivision 2; 424A.093, subdivisions 2 and 4; or 424A.094, subdivision 2, if any.

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

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

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

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

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

(b) A ~~qualified~~-municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department, which does not participate in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as

provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

**Technical Change #4:**  
**356A.06 INVESTMENTS; ADDITIONAL DUTIES.**

...

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

...

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

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

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

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

(iv) international securities.

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

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

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

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

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

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

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

**Technical Change #5:**

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

...

**Subd. 7a. Restrictions.**

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

1.1 A bill for an act  
1.2 relating to retirement; certain municipalities without volunteer firefighter relief  
1.3 associations; adding a financial report exemption; amending Minnesota Statutes  
1.4 2013 Supplement, section 69.051, subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2013 Supplement, section 69.051, subdivision 3, is  
1.7 amended to read:

1.8 Subd. 3. **Report by certain municipalities; exceptions.** (a) The chief administrative  
1.9 officer of each municipality which has an organized fire department but which does not  
1.10 have a firefighters' relief association governed by section 69.77 or sections 424A.091 to  
1.11 424A.095 and which is not exempted under ~~paragraph~~ paragraphs (b) or (c) shall annually  
1.12 prepare a detailed financial report of the receipts and disbursements by the municipality  
1.13 for fire protection service during the preceding calendar year on a form prescribed by the  
1.14 state auditor. The financial report must contain any information which the state auditor  
1.15 deems necessary to disclose the sources of receipts and the purpose of disbursements for  
1.16 fire protection service. The financial report must be signed by the municipal clerk or  
1.17 clerk-treasurer of the municipality. The financial report must be filed by the municipal clerk  
1.18 or clerk-treasurer with the state auditor on or before July 1 annually. The municipality does  
1.19 not qualify initially to receive, and is not entitled subsequently to retain, state aid under  
1.20 this chapter if the financial reporting requirement or the applicable requirements of this  
1.21 chapter or any other statute or special law have not been complied with or are not fulfilled.

1.22 (b) Each municipality that has an organized fire department and provides retirement  
1.23 coverage to its firefighters through the voluntary statewide lump-sum volunteer firefighter  
1.24 retirement plan under chapter 353G qualifies to have fire state aid transmitted to and

2.1 retained in the statewide lump-sum volunteer firefighter retirement fund without filing  
2.2 a detailed financial report if the executive director of the Public Employees Retirement  
2.3 Association certifies compliance by the municipality with the requirements of sections  
2.4 353G.04 and 353G.08, paragraph (e), and certifies conformity by the applicable fire chief  
2.5 with the requirements of section 353G.07.

2.6 (c) Each municipality that has an organized fire department, provides retirement  
2.7 coverage to its firefighters through the public employees police and fire retirement plan  
2.8 under sections 353.63 to 353.68, does not participate in the statewide lump-sum volunteer  
2.9 firefighter retirement plan under chapter 353G, and does not have a volunteer firefighters  
2.10 relief association directly associated with its fire department, if the executive director of  
2.11 the Public Employees Retirement Association certifies that the municipality's employer  
2.12 contribution under section 353.65, subdivision 3, for its firefighters in the most recent  
2.13 prior calendar year equaled or exceeded the municipality's fire state aid for the most recent  
2.14 prior calendar year, qualifies to receive fire state aid under this chapter without filing a  
2.15 financial report under paragraph (a).

2.16 **EFFECTIVE DATE.** This section is effective the day following final enactment  
2.17 and applies to fire state aid payable on October 1, 2014.

## Exhibit H

# Definition of Municipality

### 424A.001 DEFINITIONS.

...

Subd. 3. **Municipality.** "Municipality" means:

(a) a municipality which has established a fire department with which the relief association is directly associated;~~or;~~

(b) the municipalities which have entered into a contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary;

(c) a joint powers entity which has established a fire department with which the relief association is directly associated and which is the entity responsible for satisfying the minimum municipal obligation with respect to the special fund of the relief association; or

(d) a fire district which has established a fire department with which the relief association is directly associated and which is the entity responsible for satisfying the minimum municipal obligation with respect to the special fund of the relief association.

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

(1) organized and incorporated as a nonprofit corporation to provide retirement benefits to volunteer firefighters under chapter 317A and any laws of the state;

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

(3) directly associated with:

(i) a fire department established by municipal ordinance;

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

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

(iv) a fire district created by special legislation or operated as or by a joint powers entity.

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

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

(2) the voluntary statewide lump-sum volunteer firefighter retirement plan governed by chapter 353G.

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

## **424A.092 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 under subdivision 3, paragraph (c), clause (5), and if the municipality is required to provide financial support to the special fund of the relief association under 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~~ served by the fire department to which the relief association is directly associated, or by the independent nonprofit firefighting corporation, as applicable, 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 under subdivision 3, paragraph (c), clause (5), and if the municipality is not required to provide financial support to the special fund of the relief association under 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 under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective 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.

## **424A.093 RELIEF ASSOCIATIONS PAYING MONTHLY SERVICE PENSIONS.**

...

Subd. 2. **Determination of actuarial condition and funding costs.** A relief association to which this section applies shall obtain an actuarial valuation showing the condition of the special fund of the relief association as of December 31, 1978, and at least as of December 31 every four years thereafter. The valuation shall be prepared in accordance with the provisions of sections 356.215, subdivision 8, and 356.216 and any applicable standards for actuarial work established by the Legislative Commission on Pensions and Retirement, except that the figure for normal cost shall be expressed as a level dollar amount, and the amortization contribution shall be the level dollar amount calculated to amortize any current unfunded accrued liability by at least the date of full funding specified in subdivision 4, clause (b). Each valuation shall be filed with the governing body of the municipality ~~in which the relief association is located~~ served by the fire department to which the relief association is directly associated, or by the independent nonprofit firefighting corporation, as applicable, and with the state auditor, not later than July 1 of the year next following the date as of which the actuarial valuation is prepared. Any relief association which is operating under a special law which requires that actuarial valuations be obtained at least every four years and be prepared in accordance with applicable actuarial standards set forth in statute may continue to have actuarial valuations made according to the time schedule set forth in the special legislation subject to the provisions of subdivision 3.

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding under subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under 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~~ served by the fire department to which the relief association is directly associated, or by the independent nonprofit firefighting corporation, as applicable. If the special fund of the relief association has a surplus over full funding under subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association under 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 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 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.

**Exhibit I**  
**Nonprofit Firefighting Corporations Correction**

**424A.094 NONPROFIT FIREFIGHTING CORPORATIONS.**

...

Subd. 2. **Determination of actuarial condition and funding costs.** Each independent nonprofit firefighting corporation to which this section applies shall determine the actuarial condition and the funding costs of the subsidiary relief association using the following procedure:

(1) An independent nonprofit firefighting corporation which has a subsidiary relief association which pays a monthly benefit service pension shall procure an actuarial valuation of the special fund of the subsidiary relief association at the same times and in the same manner as specified in section 424A.093, subdivisions 2 and 3, and an independent nonprofit firefighting corporation which has a subsidiary relief association which pays a lump-sum service pension shall determine the accrued liability of the special fund of the relief association in accordance with section 424A.092, subdivision 2.

(2) The financial requirements of the special fund of the subsidiary relief association which pays a monthly benefit service pension shall be determined in the same manner as specified in section 424A.093, subdivision 4, and the financial requirements of the special fund of the subsidiary relief association shall be determined in the same manner as specified in section 424A.092, subdivision 3.

(3) The minimum obligation of the independent nonprofit firefighting corporation on behalf of the special fund of the subsidiary relief association shall be determined in the same manner as specified in section 424A.093, subdivision 5 or section 424A.092, subdivision 4, as applicable.

(4) The independent nonprofit firefighting corporation shall appropriate annually from the income of the corporation an amount at least equal to the minimum obligation of the independent nonprofit firefighting corporation on behalf of the special fund of the subsidiary relief association.

## Exhibit J

# Consolidating Relief Associations Citations

### **424B.12 MIXED CONSOLIDATING RELIEF ASSOCIATIONS; BENEFIT PLAN; FUNDING.**

Subdivision 1. **Applicability.** This section applies where one or more of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b, and one or more of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Benefit plan.** The articles of incorporation or bylaws of the successor relief association must specify whether the relief association is a defined benefit relief association or whether the relief association is a defined contribution relief association. If the successor relief association is a defined benefit relief association, the relief association benefits must comply with sections 424A.02 and ~~424B.11~~ 424B.10, subdivision 1a. If the successor relief association is a defined contribution relief association, the relief association must comply with sections 424A.016 and ~~424B.12~~ 424B.11, subdivision 2.

Subd. 3. **Funding.** If the successor relief association is a defined benefit relief association, the relief association funding is governed by section ~~424B.11~~ 424B.10, subdivision 2. If the successor relief association is a defined contribution relief association, the relief association funding is governed by section ~~424B.12~~ 42B.11, subdivision 3.

## Exhibit K

# Board of Trustees Reference

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

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

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

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

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

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

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

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

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

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

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

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

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

(h) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

## Exhibit L

# Accountant Terminology Update

### 69.051 FINANCIAL REPORT, BOND, EXAMINATION.

...

Subd. 1a. **Financial statement.** (a) The board of each volunteer firefighters relief association, as defined in section 424A.001, subdivision 4, that is not required to file a financial report and audit under subdivision 1 must prepare a detailed statement of the financial affairs for the preceding fiscal year of the relief association's special and general funds in the style and form prescribed by the state auditor. The detailed statement must show:

- (1) the sources and amounts of all money received;
- (2) all disbursements, accounts payable and accounts receivable;
- (3) the amount of money remaining in the treasury;
- (4) total assets, including a listing of all investments;
- (5) the accrued liabilities; and

(6) all other items necessary to show accurately the revenues and expenditures and financial position of the relief association.

(b) The detailed financial statement required under paragraph (a) must be certified ~~by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality~~ a certified public accountant or by the state auditor. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the examination shall give an opinion as to the condition of the special and general funds of the relief association, and shall comment upon any exceptions to the report. The independent accountant or auditor must have at least five years of public accounting, auditing, or similar experience, and must not be an active, inactive, or retired member of the relief association or the fire department.

(c) The detailed statement required under paragraph (a) must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality; or

(2) where applicable, by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the relief association is a subsidiary of an independent nonprofit firefighting corporation and by the secretary of the independent nonprofit firefighting corporation; or

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

(d) The volunteer firefighters' relief association board must file the detailed statement required under paragraph (a) in the relief association office for public inspection and present it to the governing body of the municipality within 45 days after the close of the fiscal year, and must submit a copy of the detailed statement to the state auditor within 90 days of the close of the fiscal year.