

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

Office of the State Auditor

Thursday, October 4, 2018

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 September 25, 2018 Meeting Minutes
- III. Discussion of Benefit Levels for Ancillary Benefits**
Exhibit B.
- IV. Discussion of Supplemental Survivor Benefits**
Exhibit C.
- V. Discussion of Permitting Different Vesting Requirements for Certain Return-to-Service Members**
Exhibit D.
- VI. Discussion of Bylaw Approval - Technical Change**
Exhibit E.
- VII. Other Business**
 - Update on the Fire State Aid Work Group
- VIII. Next Meeting**
Tuesday, October 16, 2018
11 a.m. to 1 p.m.
Office of the State Auditor
- IX. Adjournment**

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Tuesday, September 25, 2018
11 a.m. to 1 p.m.

Members Present

Rachel Barth, Legislative Commission on Pension and Retirement Deputy Director
Steve Donney, City of Harmony Mayor (by phone)
Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)
Dave Jaeger, Mahnomon Fire Relief Association Vice President (defined benefit lump sum plans)
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)
Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)
Tim O'Neill, Minnesota State Fire Chiefs Association Representative (defined benefit monthly/lump sum plans)
Rebecca Otto, State Auditor
Sue Virnig, City of Golden Valley Finance Director
Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)
Thomas Wilson, Eden Prairie Fire Relief Association Secretary (defined benefit monthly/lump sum plans)

Members Excused

Ron Johnson, Minnesota State Fire Department Association Representative (defined contribution plans)
Susan Lenczewski, Legislative Commission on Pension and Retirement Executive Director

Others Present

Ramona Advani, Deputy State Auditor and General Counsel
Rodger Coppa, City of Plymouth Fire Chief
George Esbensen, Eden Prairie Fire Chief
Anne Finn, League of Minnesota Cities Representative
Rose Hennessy Allen, Office of the State Auditor Pension Director
Karen Morales, Office of the State Auditor Pension Analyst
Sherry Munyon, Capital Access Representative
Sharyn North, Public Employees Retirement Association Representative
Molly Resch, Office of the State Auditor Pension Analyst
Maddison Zikmund, Spring Lake Park, Blaine, Mounds View Fire Department Representative

The following motions were duly made, seconded and approved:

RESOLVED to adopt the January 31, 2018, Working Group meeting minutes;
RESOLVED to adopt the draft language that clarify deferred interest is credited, rather than paid, during a member's period of deferral; and
RESOLVED to adopt the draft language that would clarify relief association audits must include a legal compliance audit.

I. Call to Order

Auditor Otto called the meeting to order.

II. Introductions

The Working Group members and others in attendance identified themselves and the communities they represent.

III. Review and Approval of Working Group Meeting Minutes

The members reviewed the January 31, 2018, meeting minutes that had been provided in advance. Hemstad made a motion to adopt the minutes. Johnston seconded the motion that was then adopted unanimously. O'Neill, Virnig, and Wilson abstained as they were not in attendance at the January 31, 2018, meeting.

IV. Working Group Process Discussion

- Working Group Meeting Schedule

The Working Group members reviewed the meeting schedule and notified Auditor Otto of potential conflicts.

- Working Group Purpose Statement

The Working Group members reviewed the purpose statement and agreed that no changes were necessary.

- Working Group Process

The Working Group members reviewed the process statement and agreed that no changes were necessary. The members agreed that unanimous consent should be required for a proposal to move forward.

- Working Group Membership List

The Working Group members reviewed the membership list. Auditor Otto explained that the list would be posted on the Office of the State Auditor (OSA)'s website. No changes to the list were identified.

V. Update on 2018 Relief Association Legislation

Hennessy Allen explained that the 2018 Omnibus Retirement Bill was the first pension bill in three years to be signed into law, so the Bill included Working Group recommendations compiled over several years. She summarized each of the relief association changes contained in the Bill. She noted that the changes included some items not put forth by the Working Group.

VI. Discussion of Working Group Topic Suggestions

Auditor Otto and Hennessy Allen provided the Working Group members with an explanation of each potential topic submitted for consideration. Potential topics were submitted by relief association trustees, municipal officials, and consultants, and have been identified by OSA staff. Auditor Otto said that a survey would be sent to each Working Group member before the next meeting to rank the topics. The rankings will then be used to set the Working Group priorities for the season.

VII. Discussion of Deferred Interest – Technical Change

The Working Group members reviewed a technical change that would clarify the deferred interest statutes for both the defined contribution and defined benefit relief associations. The change would refer to interest being credited during a member's period of deferral instead of being paid, as interest is not paid to a deferred member until the time of the service pension distribution. Jaeger made a motion to adopt the technical change. Kruse seconded the motion that then was adopted unanimously.

VIII. Discussion of Legal Compliance Audits Clarification – Technical Change

Auditor Otto explained that for decades, relief association audits were required to include legal compliance audits. In 2008 the statute was changed to include a definition of entities required to have legal compliance audits, and the definition inadvertently did not include relief associations. The technical change clarifies that relief association audits are required to include a legal compliance audit. This change is in keeping with the practice that auditors should already be following, and is consistent with the requirements of all other local units of government. Wall made a motion to adopt the technical change. Virnig seconded the motion that then was adopted unanimously.

IX. Other Business

There was no other business.

X. Next Meeting

Thursday, October 4, 2018
11 a.m. to 1 p.m.
Office of the State Auditor

XI. Adjournment

The meeting was adjourned at 12:30.

Exhibit B

Benefit Levels for Ancillary Benefits

Topic:

Currently, the benefit level in effect at the time a relief association member becomes disabled or dies is the benefit level to be used when calculating the disability or survivor benefit. Questions have arisen about what benefit level should be used to calculate benefits for members who are in deferred status at the time they become disabled or die. Relief associations may have made numerous benefit level changes during a member's period of deferral.

An optional change below would update the ancillary benefit provision for defined-benefit relief associations to use the benefit level in effect at the time of a member's separation from active fire department service as the benefit level when calculating disability and survivor benefits.

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 Laws 2013, chapter 111, article 5, sections 31 to 42, 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 solely for a lump-sum service pension to a retiring member, or provide a retiring member the choice of either a lump-sum service pension or a monthly service pension and the lump-sum service pension was chosen, 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:

(i) the service pension amount specified in the bylaws of the relief association at the time the member or former member separated from active service with the fire department with which the relief association is affiliated ~~of death or disability, whichever applies,~~

(ii) 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.

(3) 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.

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

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

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

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

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

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

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

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

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

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

(D) 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.

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

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

(65) 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 trust created under chapter 501C may be a designated

beneficiary. If a trust is payable to the surviving children organized under chapter 501C as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this section to the contrary.

Exhibit C

Supplemental Survivor Benefits

Topic:

Currently, when a relief association pays a lump-sum survivor benefit to a surviving spouse or to a surviving child or children, the relief association is required to also pay a supplemental survivor benefit. The supplemental survivor benefit is equal to 20 percent of the survivor benefit amount, up to a maximum of \$2,000. If the survivor benefit has been paid to a designated beneficiary or to an estate, no supplemental benefit is payable. We have seen instances where a supplemental benefit has been paid, which results in benefit overpayments when relief associations incorrectly pay a supplemental benefit with survivor benefits paid to individuals other than a surviving spouse or children.

The intent of the supplemental benefit is to help offset state income taxes that must be paid on a pension or benefit distribution. Designated beneficiaries and individuals who receive a distribution through an estate likely have the same tax concerns or obligations as other recipients of a service pension or survivor benefit. The optional changes in subdivision 1 below authorize supplemental survivor benefits to a designated beneficiary or to an estate if there is no surviving spouse and there are no surviving children.

Below are the number of survivor benefit payments made during the last three years and the potential maximum cost to the state for reimbursement of the supplemental benefits.

2016: 18 survivor benefit payments, maximum cost to State = \$36,000

2015: 17 survivor benefit payments, maximum cost to State = \$34,000

2014: 15 survivor benefit payments, maximum cost to State = \$30,000

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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 pretax 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.

Subd. 3. State reimbursement. (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters relief association or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

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

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

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

Exhibit D

Permitting Different Vesting Requirements for Certain Return-to-Service Members

Topic:

If a firefighter is paid a lump sum service pension or is receiving a monthly benefit service pension and the firefighter resumes active service and relief association membership, the firefighter is currently required to complete the same vesting requirements as all other members of the relief association to be eligible for a second service pension. There appears to be interest in allowing relief associations to establish different vesting requirements for firefighters who return to active service and membership after being paid a service pension. Members who are paid monthly service pensions have a financial incentive to retire and commence receipt of the monthly benefits as soon as they become eligible to do so because otherwise benefits are lost for each month that they are not yet collecting. This has resulted in some firefighters retiring before they may have otherwise elected. Reducing vesting requirements for these returning firefighters has been suggested as a way to help retain them and keep them in the fire service. The current statutory minimum vesting requirement is five years.

The defined-benefit monthly and monthly/lump sum combination relief associations are required to have an actuarial valuation prepared regularly that determines the accrued liabilities and minimum financial requirements. Offering different vesting requirements for different groups of members could be factored into the liability calculations performed by the actuary.

In contrast, the defined-benefit lump sum relief associations annually complete the Schedule Form that is provided by the Office of the State Auditor. The Schedule Form accrued liability factors for active members are set in a statutory table. The table is a present value table assuming the lump sum service pension is payable immediately after 20 years of service, is based on a three-percent interest assumption, and assumes no pre-retirement turnover or mortality. The Working Group should do additional research to determine if the table is still reasonable should changes to vesting requirements for a subset of firefighters be implemented.

If the Working Group decides to pursue a legislative change, the questions below should be considered.

Considerations:

1. Should the different vesting requirement be available to all relief associations, or only to members who are receiving a monthly benefit service pension?

2. Should the different vesting requirement be set in statute for those relief association that would like to implement it, or should each relief association be able to set its own vesting requirement in the bylaws?
3. Are there any others?

Exhibit E
Bylaw Approval Technical Change

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 the each municipality served by the fire department to which the relief association is directly associated or by the independent nonprofit firefighting corporation, as applicable. 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 424A.092, subdivision 3, paragraph (c), clause (5), or 424A.093, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 424A.092 or 424A.093, 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 424A.092, subdivision 6, or 424A.093, subdivision 6. If the special fund of the relief association has a surplus over full funding under section 424A.092, subdivision 3, or 424A.093, 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 424A.092, subdivision 6, or 424A.093, subdivision 6.

(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.