

Minnesota Volunteer Fire Relief Association

Working Group Meeting

State Auditor's Office
Wednesday, January 11, 2006
11 a.m. to 1 p.m.

I. Call to Order

Rotating Chair Phil Kern.

II. Review and Approval of Working Group Meeting Minutes

Exhibit A. Final December 1, 2005 Minutes

Exhibit B. Draft December 15, 2005 Minutes

III. Old Business

IV. Relief Association Membership and Coverage Issues

Exhibits C through I.

- LCPR Memorandum dated January 5, 2006
- LCPR Memorandum dated April 4, 2005
- February 12, 2004 PERA Board Meeting Minutes
- December 9, 2004 PERA Board Meeting Minutes
- January 13, 2005 PERA Board Meeting Minutes
- Minn. Stat. § 353.01, subds. 2a and 2b
- Minn. Stat. § 424A.01

V. Disability Benefit Status Reversals

Exhibit J.

Minn. Stat. § 424A.02, subds. 9 and 9b.

VI. Reporting Form Filing Status

Exhibits K through N.

- Pension Reporting Entities
- State Fire Aid Certification History
- 2005 Second Round Certification Summary
- Late Filing Fire Relief Association List

VII. Other Business

VIII. Next Meeting

Thursday, January 26, 2006

Volunteer Fire Relief Association Working Group

State Auditor's Office
Thursday, December 1, 2005
11 a.m. to 1 p.m.

Members Present

Delano City Administrator Phil Kern, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnommen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), Northfield Fire Relief Association Secretary Tom Nelson, State Auditor Patricia Anderson and White Bear Lake Finance Director Don Rambow.

Member Excused

League of Minnesota Cities Representative Anne Finn and Minnesota State Fire Chief Association Representative Nyle Zikmund.

Others Present

Deputy Director of the Legislative Commission on Pensions & Retirement Edward Burek, Golden Valley Fire Department Relief Association Treasurer Mark Rosenblum, General/Legal Counsel Carla Heyl, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen, Brian Martenson and Paul Rosen.

Rotating Chair Nelson called the meeting to order and asked everyone to introduce themselves.

Approval of Minutes

The Working Group members reviewed the minutes that had been provided before the meeting. Ganfield moved with a second from Jaeger to approve the December 13, 2004 meeting minutes. The motion was approved unanimously. Ganfield requested clarification to the Zikmund motion on page 3 of the draft November 17, 2005 minutes. He suggested that the sentence referring to the motion specifically state that the motion would permit either the filing an FA-1 form or complete MFIRS (Minnesota Fire Incident Reporting System) reporting. Nelson moved to approve the minutes with the language. The motion was seconded by Ganfield and approved unanimously.

Old Business – Ex-Officio Trustees

Ganfield said he had reviewed past minutes and materials regarding the definition of municipal official for ex-officio positions on the relief association board of trustees. He said he thought the Working Group's intent had been to allow only existing municipal officials, whether elected or appointed, to be appointed as ex-officio trustees.

Ganfield asked the Working Group to clarify whether one becomes a municipal official through appointment to a relief association board or needs to have been an appointed or elected municipal official before being appointed as an ex-officio trustee. No motion was made so the discussion moved to the next agenda item.

FA-1 Reporting Form Recommendations

At Nelson's request, Ganfield described some fire equipment requirement recommendations. Ganfield said his review of state law shows the time to assess equipment is at the end of rather than during the year.

Martin said he had requested an update to the minimum requirements to determine whether the underlying state law, Minn. Stat. § 69.011, subd. 4, requires revision to capture what constitutes a good fire department. Martin inquired whether the recommended requirements would be sufficient to establish a new fire department. Ganfield said fire departments have been improving over time.

Martin said that the legislative intent of the minimum requirements established in 1969 benefited smaller fire districts by changing the state fire aid formula to one-half based on market value and one-half based on population rather than the fire insurance premiums written on property in a fire town. He said the lawmakers wanted to use the state fire aid changes to improve fire capabilities even though state fire aid is not generally used for fire departments but pension benefits. Jaeger said most departments exceed the minimum requirements but the FA-1 requirements are a good starting point for new fire departments.

Nelson asked if the requirements should change and suggested they be shared sometime with Larry Bewley of the Department of Revenue. Roberts suggested that the Working Group study the statute and discuss the recommendations again at another meeting. Hansen said he believes the FA-1 form will eventually switch to MFIRS. He said he would like to see the requirement list reflect firefighter safety.

Nelson asked if there was a motion to table the recommendations. Roberts asked if approving a motion to table would be confusing in light of the Working Group's adoption of the Zikmund motion to allow either the FA-1 form or MFIRS reporting at the November 17, 2005 meeting. Hansen said that motion had been a compromise that should move reporting to MFIRS without forcing it upon fire departments.

Roberts sought time to contact small fire departments and Ganfield asked for more time to review state law. It was decided to revisit the recommendations as a future agenda item.

Roberts then asked if the Minnesota State Fire Department Association (MSFDA) could seek input from the small departments. He also observed that the fire marshal has a role as well as the Department of Revenue in determining whether fire departments have met the minimum requirements. Ganfield said some departments with used or refurbished equipment may not be up to standards.

Old Business -- Board Officer Salaries

Martin outlined the aggregate board officer salary data in Exhibit B that he had prepared from data collected by the State Auditor's Office. He said that about one-third of the state's relief associations pay board officer salaries and that in certain instances the city is required to pay or makes voluntary contributions. He indicated that salaries paid from a relief association's Special Fund use dollars that otherwise could have provided pension benefits. Martin said the data is helpful when deciding if vice presidents should be paid salaries from the Special Fund. Nelson asked if there was consensus to leave state law untouched. Roberts said he thinks relief associations should be able to pay vice presidents from their Special Funds if that's their choice.

Rambow said he was struck when reading the data by how many relief associations pay nothing or small amounts to relief association officers. He said he asked himself when looking at those being paid high amounts, what makes their job so demanding to need a salary when other officers are paid nothing. He said the money paid for salaries could be used for pensions.

Dietz said some relief associations that look like they aren't paying officers may be doing so from their General Funds. He said he would like to see all salaries paid from the General Fund but it would be best for relief associations to decide individually through their bylaws. Roberts agreed that salaries should be a local decision saying that some city contributions cover or exceed the amount of the salaries. Jaeger said his city directly pays the salaries of his relief association's president, secretary and treasurer.

Ganfield said some relief associations are having difficulty getting members to be officers so it is helpful to be able to pay them to get them there. Hansen suggested that a salary is warranted for relief associations that have a lot of money in the bank since a responsible person would be needed. Rambow said members of city councils and those on boards view it as a public service. He said some people are paid very little to be mayor and officers of relief associations that pay consultants for investment decisions may not merit high salaries.

Auditor Anderson said she appreciated the high value of service received from the volunteer fire department in Eagan during her time as mayor. Roberts recommended that relief associations receive the statutory authority to choose. Dietz agreed that some warrant salaries especially when the administrative burden of tracking 130 rather than 30

members falls on them. He said all board members should be able to be paid from the Special Fund or General Fund if addressed in the relief association bylaws.

Martin said Minn. Stat § 69.80 allows reimbursement of board members for expenditures from the Special Fund. Nelson asked for a motion. Rambow asked why it is necessary to tap the Special Fund when salaries can be paid from the General Fund. Martin said change would be an uphill battle at the state legislature because two-thirds of the relief associations do not offer board salaries. Roberts said cities should be allowed to make contributions to the General Fund of a relief association if salaries must be paid from that fund. Martin said state law does not allow city contributions to the General Fund.

Ganfield pointed out that state law allows designees and administrative personnel to be paid from Special Fund. Martin said the designee would have to fit into an employment setting and that is not consistent with the vice president position. Hansen said he would hate to see the Working Group push the envelope by recommending use of this statute for vice president salaries.

Nelson said he wanted to give Martin direction to draft something or do nothing. Roberts said he has heard from defined contribution plans that want to have vice presidents paid from Special Fund. He moved to allow vice presidents to be paid from Special Fund with a second by Auditor Anderson.

Ganfield moved to amend the motion to allow any trustee to be paid from Special Fund if in the bylaws with a second by Dietz. The vote on the amended motion did not reach consensus. Auditor Anderson voted against the amended motion stating she opposes mayors being paid a salary to attend relief association board meetings. The members then voted on the original motion to permit payment of vice presidents from the Special Fund. The motion was not unanimous with Rambow voting in opposition.

Return to Service – Defined Benefit Plans

Nelson invited Rosenblum to explain the return to service issue faced by the Golden Valley Fire Relief Association. Rosenblum said the question is how long a member must have returned from deferred service before being eligible for the current benefit level.

Dietz said firefighters should serve for at least as long as their break in service. He said if a member is gone for three years the member should serve three years to be eligible for any benefit increases. Dietz added that a fire department's hiring decisions can put a burden on a relief association but his relief association tries to support the hiring decision by permitting relief association membership. Rosenblum agreed but said if a person is gone for a long time, it may not be possible to make up the time.

Martin asked why a city would want to hire someone whose motivation may not be to fight fires but to get an increased pension. Nothing in law requires a firefighter to be a member of a relief association, he said, noting that there are statutory exclusions to relief association membership. He said he isn't sure that state statute is causing a problem or that it needs to be modified unless to give help.

Ganfield said there are two issues of concern: how to pay and how to bring back. He said the Apple Valley Fire Relief Association changed its bylaws to say members must complete a minimum of five years in the department and relief association before becoming eligible for the current benefit level. Members who do not meet this requirement do not receive prior service credit, he said.

Dietz said his relief association retains the prior service credit on the deferred rolls and starts the member's time upon return at the present benefit amount. The time gone is shown as a leave of absence.

Rosenblum said the Schedule forms would not calculate prior service credit at a lower benefit amount. Roberts suggested that the city pay for any increase in liability. Martin said cities will potentially pay for the increase and the Schedule form should not drive what the benefit plan looks like. He said estimating the pension fund liability is different than the amount to be paid so the Schedule form may show a greater liability.

The discussion of return to service issues was briefly postponed until after lunch.

Ganfield said relief associations should not treat previous years as deferred or give interest on that service, but treat it as a break in service if an individual returns as a firefighter. Rosenblum said he sees the need to handle return to service issues individually.

Roberts said he receives similar questions from defined contribution plans because there is not a lot of statutory language in their regard. He said his relief association distributes a partially vested member's forfeitable percentage upon separation. While not opposed to a time requirement for distribution, he said his relief association does not wish to wait until the member's date of retirement.

Martin said there seems to be more cases of members returning to firefighting service than in the past or the benefit level for those that did return must not have changed. Roberts said if the time requirement is not clear in state statute, his relief association would continue to follow its bylaws to distribute the forfeitable amount during the year of the member's separation. Martin cautioned against volunteer fire relief associations forfeiting dollars earlier than five years for unvested members.

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Nelson suggested that the issue be brought up again for additional discussion and the meeting was adjourned.

New Business

In response to a question from Roberts, Martin said that relief associations are authorized to choose 15-year vesting in their bylaws because Minn. Stat. § 424A.02, subd. 2, sets a 10-year minimum for full vesting for defined contribution plans.

The meeting adjourned shortly after 1 p.m.

Volunteer Fire Relief Association Working Group

State Auditor's Office
Thursday, December 15, 2005
11 a.m. to 1 p.m.

Members Present

Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), Northfield Fire Relief Association Secretary Tom Nelson (defined benefit plans), State Auditor Patricia Anderson and White Bear Lake Finance Director Don Rambow.

Members Excused

Mahnomen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen and Minnesota State Fire Chief Association Representative Nyle Zikmund.

Others Present

Deputy Director of the Legislative Commission on Pensions and Retirement Edward Burek, General Legal Counsel Carla Heyl, Assistant General Legal Counsel David Kenney and Pension Director Judith Strobel.

Rotating Chair Dietz called the meeting to order.

Approval of Meeting Minutes

The Working Group members reviewed the minutes that had been provided before the meeting. Ganfield moved with a second from Roberts to approve the revised November 17, 2005 minutes as final minutes for that meeting. The motion passed with consensus. He then suggested some clarification language to paragraph 2 on page 5 of the December 1, 2005 minutes and a correction to the spelling of his last name on the same page. Ganfield then moved with a second from Nelson to approve the December 1, 2005 minutes that were approved unanimously.

Old Business – Trustee Salaries

Martin presented some draft language that would expand trustee salaries with certain restrictions including city approval. He said he had prepared the language in follow-up to the Working Group's December 1, 2005 discussion about expanding the authorization to pay trustee salaries. He asked the members to review the language for further discussion at the next meeting.

Ganfield said he was pleased to see draft language because he believes that firefighter board members ought to be compensated from the Special Fund. He said it is important to get firefighters more involved and encourage attendance at relief association meetings.

Finn said she would like to see a cap placed on the amount of compensation that could be paid. Rambow expressed concern that the intent of the Special Fund is to pay retirement benefits not to pay operating costs. He said he has a philosophical problem using dedicated funds to pay operating costs. In his view, he said big relief funds often hire professional administrative help and small ones may have less work to do so the question is for what should they receive compensation.

Ganfield acknowledged Rambow's concern but said most trustees that receive salaries receive small amounts. He said his relief association retained an administrator when the job got too big for the officers. He said few relief associations pay high salaries and even the small salary amounts must be approved by the membership.

Kern said Delano pays salaries directly to the relief association officers. He questioned why municipalities would not pay salaries directly because paying a vice president from the Special Fund would likely raise the required municipal contribution anyway. Finn said the League of Minnesota Cities could broach this subject but suggested that salaries may be best addressed at the local level. Dietz said he supports local control and Roberts said cities and relief associations should be allowed to decide whether to pay salaries from the Special Fund.

Martin explained that defined benefit plans could cause an increase in any required municipal obligation if additional salaries are paid. Cities make payments to defined contribution plans only by choice not because they have to, he said, whereas cities may have to kick in higher contributions for defined benefit lump sum plans. Martin said the draft language requires city approval at any time a relief association adds or changes salary amounts. He said 60 to 70 percent of the relief associations do not pay salaries from the Special Fund.

Ganfield asked whether salaries should be paid differently for defined contribution plans. He said that FRPAS (the State Auditor's new Fire Relief Pension Accounting System) may simplify the reporting process for defined benefit lump sum plans but someone will still need to enter the data so that person should be paid.

Rambow said there should be discussion at the city level as to how to pay for relief association salaries and restated his belief that the Special Fund is sacred and should not be tapped for salaries. Roberts moved to withhold any action to change trustee salaries. Auditor Anderson seconded the motion that was approved unanimously by the Working Group.

Defined Contribution Plan Forfeiture Distributions

Roberts sought clarification of the defined contribution plan forfeiture distribution discussion at the December 1, 2005 meeting to be sure that his relief association may continue to set up separate accounts for members who leave and subsequently return to service. He asked if a firefighter with five years of service leaves and comes back at a later date should the relief association distribute the forfeited money the year the firefighter leaves or retain it until the firefighter comes back.

Heyl asked Roberts if he would like the current defined contribution plan statute clarified because today's needs may vary from what was previously determined by the state legislature. Auditor Anderson encouraged Roberts to check with other defined contribution plans about the standardization of forfeiture distributions and come up with a plan to discuss in the Working Group or separately.

Rambow said if a firefighter leaves service the firefighter should forfeit or have a grace period of five years to come back. A substantial penalty may be the choice of coming and going, he said, asking why a relief association would want to make it easy for firefighters to leave and come back. Ganfield and Martin said relief associations should outline the consequences of split service in their bylaws.

In response to Heyl's question, Roberts said the defined contribution plan law could be tightened up. Martin said he would like to separate what makes sense for defined contribution plans from what makes sense for the defined benefit plans by drafting different statutory provisions. Rambow said relief associations have the prerogative to adopt bylaws that make partially vested provisions more restrictive. He said White Bear Lake has partially vested provisions that are very restrictive because the relief association membership and the city council want it that way.

Martin said the state statutes generally provide minimums and maximums allowing relief associations to do what they want in between. He said a subcommittee of the Working Group to address defined contribution plan changes wouldn't work well this year because the Pension Commission chair intends to hear the bulk of pension business in January and February before the start of the 2006 legislative session. Auditor Anderson said next year is a possibility and encouraged members to gather input.

FA-1 Recommendations

Martin said changes to Minn. Stat. § 69.021 could require changes to the FA-1 Form that is prepared by the Department of Revenue. If the law were to be amended to permit MFIRS reporting, the FA-1 Form instructions could ask whether MFIRS is being used or, if not, to require full completion of the form. He further said the fire marshal could notify the Department of Revenue directly to do away in large measure with the FA-1 Form although something would still be needed for those that don't file MFIRS.

After speaking to representatives of smaller departments, Ganfield said the FA-1 Form is still necessary because it is a minimum not a maximum qualification for state aid. He suggested striking the July 1, 1972 date in Minn. Stat. § 69.011, subd. 4, to allow the state fire marshal to determine an alternative to the minimum requirements for state aid, which could be filing MFIRS. Finn said the 1972 language is likely a grandfather provision. Ganfield said the need for filing MFIRS has progressed and is becoming a requirement for grants. Martin said the issue didn't exist in 1969 when the statute was created and budget reasons were probably the reason the fire marshal does not inspect every fire department to determine if the minimum requirements have been met.

After deciding whether to wait to make a motion until the next meeting, Ganfield moved to strike the July 1, 1972 language from subd. 4. Roberts seconded the motion saying Ganfield's idea is the simplest way to accommodate MFIRS without adding more language to state law. The motion was approved without dissent and Martin said he would draft language to that effect.

Service Pension and Ancillary Benefit Issues

Ganfield asked how others define funeral benefits compared to survivor and death benefits. He said that his relief association had a member who died just before becoming eligible for a full retirement benefit. The survivor amount could not be paid because there was no eligible survivor under the bylaws and it was deemed too large to be a funeral benefit by the city attorney. He asked whether funeral benefits are the only benefits that can be transferred to an estate when there is no surviving spouse or surviving child.

Martin said paying a five-year benefit to a young firefighter who dies with less than that amount of service probably doesn't threaten the solvency of the pension fund of a relief association with a wide distribution of ages and lengths of service even though the death benefit is not actuarially funded. By contrast, he said an amount (whether survivor, funeral or a combination of both) that exceeds the deceased member's earned service pension amount is not authorized because promised benefit payments must be funded. He said relief associations are permitted to offer coverage through the Volunteer Fire Benefit Association (VFBA) for which dues can be paid from the Special Fund. Ganfield said VFBA payouts are few because it is difficult for firefighters to figure out the filing practices.

Martin said the way to accommodate this funding concern is for relief associations to buy casualty insurance. He said relief associations could join together to seek reasonable casualty insurance quotations. Ganfield said the history of volunteer fire plans was to pay firefighters and their families but there are restrictions now about what may be paid to the family and what may be paid to the estate.

Ganfield recommended amending state law to permit the payment of any available amount whether it is called a survivor, funeral or death benefit. There is no compelling state interest to not pay a benefit, he said. Auditor Anderson said the appropriate wording to address Ganfield's concern could be added to state law. Ganfield asked Martin to draft language to amend Minn. Stat. §424A.05, subd. 3(a)(3), to permit disbursements from the Special Fund:

“for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries or the estate of deceased members of the relief association if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;”

Due to another commitment, Auditor Anderson excused herself for the remainder of the meeting.

Volunteer Fire Report Requirements

Heyl said Auditor Anderson would like to improve the annual Volunteer Fire Relief Association Financial and Investment Report by having greater latitude than presently provided in state law that strictly specifies the classification of data precluding its presentation in more meaningful ways. Martin said the specific statutory categories were enacted to ensure receipt of the minimum information desired by state lawmakers. The categories that made sense in the late 1970s may now be more of a hindrance than help, he said.

Heyl said the State Auditor's Office collects relief association financial and investment data each year and publishes it each year although state law permits every other year. Ganfield said the State Auditor's Office should be able to do what it would like because he believes the key audience is the Pension Commission not relief associations.

Dietz said he uses the report annually but Ganfield said many relief associations require more current information than can be provided by the report due to the statutory timing of the reporting form deadlines. Roberts said readers know that the information is at least a year behind so they look for patterns among the relief associations. Nelson asked Martin to bring back language on this topic at a future meeting.

In light of time constraints, Dietz said the Reporting Form Filing Status agenda item would be held over to the next meeting.

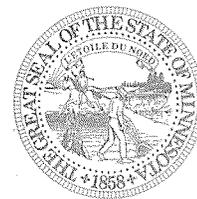
Other Business

Rambow brought up a newspaper article that said the City of Truman should not have held a recognition event for its volunteer firefighters. He said the City of White Bear Lake pays for a similar recognition event from its city budget through a special resolution that is known to the public. Heyl said cities unlike the state and counties do not presently have statutory authorization to hold this type of event for their employees. She offered to provide Rambow with some background information on recognition events that is available on the State Auditor's website at www.auditor.state.mn.us. Ganfield also discussed a League of Minnesota Cities document available on the MSFDA website at www.msfa.org.

Next Meeting Date

At Rambow's request, the next Working Group meeting date was moved up one day to accommodate a scheduling conflict for Rambow and Auditor Anderson. The next meeting will be held from 11 a.m. to 1 p.m. on Wednesday, January 11, 2006 in the State Auditor's Conference Room.

The meeting adjourned at 1:15 p.m.



TO: Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: Potential Definition of "Volunteer Firefighter"; Limitation on Volunteer Firefighter Relief Association Membership and Coverage

DATE: January 5, 2006

Introduction

State Auditor Patricia Anderson has requested that the Commission staff assemble an issue memorandum on the potential definition of the term "volunteer firefighter" and on potential limitations on membership in and have coverage by volunteer firefighter relief associations.

Existing Definition of "Volunteer Firefighter"

The term "volunteer firefighter" is not a term with an explicit definition in Minnesota Statutes, but the term has some implicit definitional elements.

Outside of Minnesota Statutes, Chapter 424A, the term is included in other definitions. Minnesota Statutes, Section 299A.41, Subdivision 4, includes "legally enrolled member of a volunteer fire department" and "member of an independent nonprofit firefighting corporation" in the definition of the term "public safety officer" for purposes of the public safety officer's survivor benefits if the person is engaged in the hazards of firefighting. For purposes of the continued health insurance coverage for disabled peace officers and firefighters in Minnesota Statutes, Section 299A.465, "volunteer firefighters" are excluded from the definition of "firefighter" cross-referenced in Minnesota Statutes, Section 299A.465, Subdivision 5. Minnesota Statutes, Sections 353.01, Subdivision 36, and 353.87, relating to retirement coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Public Employees Police and Fire Retirement Plan (PERA-P&F) defines "volunteer firefighter" as a status for service for which the person receives volunteer firefighter relief association coverage under Minnesota Statutes, Chapter 424A, and grandfathers pre-June 30, 1989, volunteer firefighter members of PERA-General or PERA-P&F in that coverage, but gives the person an option to discontinue future PERA-General or PERA-P&F coverage and receive a refund for past service.

Minnesota Statutes, Chapter 424A, has component parts of an implicit definition of the term "volunteer firefighter" and places limitations of volunteer firefighter relief association membership and coverage. Minnesota Statutes, Section 424A.011, Subdivision 8, and Minnesota Statutes, Section 424A.01, Subdivision 5, allow the term "firefighting service" to include service rendered by fire prevention personnel if the applicable municipality or independent nonprofit firefighting corporation approves the inclusion. Minnesota Statutes, Section 424A.011, Subdivision 9, defines the term "separation from active service" to mean the permanent cessation of the performance of fire suppression duties, fire prevention duties, or the supervision of fire suppression or prevention duties. Minnesota Statutes, Section 424A.01, Subdivision 1, prohibits the employment of a minor as a firefighter or the allowance of a minor to perform firefighting duties with a volunteer fire department. Minnesota Statutes, Section 424A.01, Subdivision 2, also specifies that a substitute volunteer firefighter is not a firefighter for retirement coverage purposes. Minnesota Statutes, Section 424A.01, Subdivisions 3 and 4, provide that a person who is a volunteer firefighter but is not a member of the relief association or has been excluded by the relief association board from relief association membership as constituting an unwarranted health risk is not eligible for volunteer firefighter relief association benefit coverage.

Thus, assembling the applicable portions of the relevant provisions of Minnesota Statutes, Chapter 424A, a volunteer firefighter for volunteer firefighter relief association retirement coverage purposes is a person who:

1. serves with a municipal fire department or an independent nonprofit firefighting corporation;
2. is not a minor;
3. is not a substitute;
4. has not been excluded from relief association membership as an unwarranted health risk by relief association board action or has not declined relief association membership; and



5. provides fire suppression activities, supervises fire suppression activities, or, if the municipality or nonprofit firefighting corporation approves, performs fire prevention duties or supervises the performance of fire prevention services.

The definitional elements included in Minnesota Statutes, Chapter 424A are not particularly instructive in attempting to differentiate between “paid” firefighters and “volunteer” firefighters, especially when both types of firefighters are present in the same fire department, such as full-time fire chiefs, full-time fire marshals/fire inspectors, and full-time fire truck drivers/fire equipment engineers or operators.

Past Attempts to Add Statutory Definition of “Volunteer Firefighter”

While the issue of attempting to regulate the perceived or actual problem of duplicative retirement coverage for the same service by paid fire personnel who also are volunteer firefighters in the same community has undoubtedly arisen on numerous occasions, there have been at least three instances where the Legislative Commission on Pensions and Retirement addressed the issue in detail and where the recommended legislation was considered further, in 1978-1979, 1987, and 1989.

In 1978-1979, the Commission began to address the volunteer firefighter double pension coverage issue as an outgrowth of Commission concerns during the 1978 Legislative Session over proposed legislation authorizing a service credit purchase for the Brainerd fire chief, who had concurrent coverage by the Public Employees Police and Fire Retirement Plan (PERA-P&F) and the Brainerd Volunteer Firefighter Relief Association. In 1979, the Commission approved 1979 S.F. 810 (Stokowski), which included a definition of “volunteer firefighter.” The 1979 definition (see S.F. 0810-1E; Attachment E) had three parts, which were:

- a. On Call Emergency Duty. The person serves on call for emergency duty as a regular active member of a municipal fire department or an independent nonprofit firefighting corporation.
- b. Limited Compensation. The person’s compensation for the emergency on call fire service must not be based on or be a multiple of any compensation rate paid to the person by the fire department or firefighting corporation.
- c. No Other Retirement Coverage for Fire Service. The person’s compensation must not be used as the basis for member of employer contributions to the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) or to the PERA-P&F.

The 1978-1979 proposed legislation also defined the term “salaried fire chief” and restricted salaried fire chiefs and persons not rendering volunteer firefighter service from coverage by a volunteer firefighter relief association.

In 1987, the Senate members of the Legislative Commission on Pensions and Retirement pursued proposed legislation to exclude volunteer firefighters from PERA-General or PERA-P&F coverage. The exclusion provisions (see 87-2640; Attachment F) used the same definition of the term “volunteer firefighter” as the 1979 proposed legislation and excluded volunteer firefighters from PERA-General coverage or from PERA-P&F coverage.

In 1989, the issue of double pension coverage for volunteer firefighters arose again. Initially (see 89-1923; Attachment G), the Commission reviewed proposed legislation that excluded “volunteer firefighters” from PERA-General or PERA-P&F retirement coverage, implicitly defining the term “volunteer firefighter” as a person who engages in activities undertaken as part of volunteer firefighter duties for which the person receives volunteer firefighter relief association credit, but grandparented in any volunteer firefighters with PERA-General or PERA-P&F coverage. A different approach also was presented, probably from PERA (see Attachment H), which excluded volunteer firefighters performing volunteer firefighter duties for PERA-General or PERA-P&F coverage, defining a volunteer firefighter as a person whose hours of service as a volunteer firefighter were provided without promise, expectation, or actual receipt of compensation for the service rendered beyond expense reimbursement, reasonable benefits, normal fees, or a combination. Ultimately, the Legislature enacted Laws 1989, Chapter 319, Article 3, Sections 2, 6, and 24 (see Attachment I), which continue as current law. The provisions exclude volunteer firefighters from PERA-General and PERA-P&F coverage, although pre-1989 volunteer firefighters are grandparented into coverage, and the term “volunteer firefighter” is defined as a person rendering service credited by a volunteer firefighter relief association.

TO: LCP&R

FROM: Larry Martin

RE: Volunteer Firefighters Relief Association Membership for Fire Chiefs

DATE: July 28, 1978

During the 1978 Session, a bill was introduced and was recommended by the Commission allowing the Brainerd fire chief to purchase a period of prior service as a St. Paul firefighter in the Public Employees Police and Fire Fund (PERA P&F). During deliberations on the bill before the Senate Governmental Operations Committee, it was discovered that the fire chief involved was also covered by the Brainerd Volunteer Firefighters Relief Association and would be entitled to receive a volunteer relief association lump sum service pension in addition to his PERA-P&F pension without a requirement that the fire chief perform any duties in addition to those performed as an "on-call" employee of the city. An amendment was placed on the bill which prohibited the accrual of any further service credit by the fire chief in the volunteer firefighters relief association. The bill was passed in different versions by the two houses and the differences were not able to be resolved in conference committee prior to adjournment.

The situation occurring in Brainerd is not unique. In many cities where there exists a volunteer fire department, there are frequently one or more persons who are full time employees who are generally covered by the Public Employees Police and Fire Fund. These persons most frequently include the fire chief and regular fire truck drivers. The full time salaried fire chief is generally on "on-call" status whenever he is not working and will routinely be required to go to any fires which occur during non-duty periods. These paid firefighters, including the fire chief, will generally be members of the volunteer firefighters relief association. In the case of the fire chief, because of the "on-call" status situation, there are no extra duties or service requirements beyond employment duties or requirements in order to become entitled to receive a service pension from the volunteer firefighters relief association.

This double pension coverage without additional services required has been viewed by some as constituting an abuse. The accompanying proposed legislation was drafted by the staff at the request of the chairman in order to correct this situation.

A bill for an act

relating to retirement; prohibiting
volunteer firefighters relief association
membership for fire chiefs.

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

Section 1. [RESTRICTION ON VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION MEMBERSHIP FOR CERTAIN PERSONS.] No person who is employed by a city in the position of fire chief or who is employed in a comparable executive or administrative position if the city has no designated position of fire chief and who is a member of the public employees retirement association, the public employees police and fire fund or a local salaried firefighters relief association to which Minnesota Statutes, Section 69.77 applies shall be entitled while so employed after the effective date of this act to be a member of or to accrue any service credit in a volunteer firefighters relief association to which Minnesota Statutes, Sections 69.771 to 69.776 apply.

Sec. 2. [EFFECTIVE DATE.] This act shall be effective the day following final enactment.

TO: LCP&R

FROM: Lawrence Martin, Exec. Sec.

RE: SF 810 (Stokowski, Strand); HF 750 (Patton): Volunteer Firefighters' Relief Associations; Restriction on Coverage for Certain Fire Chiefs

DATE: September 21, 1979

Summary of the Bill

The bill prohibits any person who is employed as a fire chief (or is employed in a comparable administrative position if the city has no designated position of fire chief) and who is also a member of PERA or the PERA-Police and Fire Fund or of a local salaried firefighters relief association from also being a member of or accruing any further service credit in a volunteer firefighters relief association while employed as a fire chief.

Legislative Action to Date

The bill was heard and recommended as amended by the Legislative Commission on Pensions and Retirement on April 3, 1979. The bill was recommended to pass as amended by the Senate Committee on Governmental Operations on April 23, 1979. The bill was amended by the Senate to return it to the form in which it was introduced and passed the Senate on final passage as a special order on May 8, 1979. The bill has not been heard or acted upon by the House Committee on Governmental Operations or considered in any form by the House.

Discussion

In many cities where there exists a volunteer fire department, there are frequently one or more persons who are full time employees who generally have pension coverage through the PERA-Police and Fire Fund. These persons most frequently include the fire chief and the regular fire truck drivers. The full time salaried fire chief is generally on an "on-call" status whenever the chief is not on duty and will routinely be required to go to any fires which occur during non-duty periods. Typically, these paid firefighters, including the fire chief, will be members of the volunteer firefighters relief association. In the case of the fire chief, because of the "on-call" status situation, there are no additional duties or service requirements beyond employment duties or requirements in order to become entitled to receive a service pension from the volunteer firefighters relief association. This double pension coverage for no additional duties has been viewed as an abuse by several Commission members, and is remedied by prohibiting further membership in or accrual of service credit from the volunteer firefighters relief association during the time that the person has full time public pension coverage for salaried employment as a fire chief.

The Commission, during its consideration of the bill earlier this session, extended the prohibition on double pension coverage to active firefighters who do not perform substantial services as a volunteer firefighter, defining what constitutes a volunteer firefighter in terms of the compensation received.

SENATE
STATE OF MINNESOTA
SEVENTY-FIRST LEGISLATURE

PRINTED
PAGE NO. 438

S. F. NO. 810

Introduced by Stokowski, Strand, Renneke, Ogdahl and Peterson.
Read First Time Mar. 8, 1979, and Referred to
the Committee on Governmental Operations.
Committee Recommendation. To Pass as Amended.
Committee Report Adopted Apr. 23, 1979.
Read Second Time Apr. 23, 1979.
Referred to the Subcommittee on Bill Scheduling Apr. 23, 1979.
Placed on General Orders by Subcommittee on Bill
Scheduling Apr. 26, 1979.
Pursuant to Rule 10, Made a Special Order May 8, 1979.
Special Order. Amended May 8, 1979.
Read Third Time as Amended May 8, 1979.
Passed by the Senate as Amended May 8, 1979.
Transmitted to the House May 8, 1979.

1 A bill for an act

2 relating to retirement; prohibiting membership in
3 a volunteer firefighters' relief association by
4 certain persons.

5

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

7 Section 1. [RESTRICTION ON VOLUNTEER FIREFIGHTERS
8 RELIEF ASSOCIATION MEMBERSHIP FOR CERTAIN PERSONS.] No
9 person who is employed by a city in the position of fire
10 chief or who is employed in a comparable executive or
11 administrative position, if the city has no designated
12 position of fire chief, and who is a member of the public
13 employees retirement association, the public employees
14 police and fire fund or a local salaried firefighters
15 relief association to which Minnesota Statutes, Section
16 69.77 applies, shall be entitled while so employed after
17 the effective date of this act to be a member of or to
18 accrue any service credit in a volunteer firefighters
19 relief association to which Minnesota Statutes, Sections
20 69.771 to 69.776 apply.

21 Sec. 2. [EFFECTIVE DATE.] This act is effective the
22 day following final enactment.

*Stawkowski
Passed
April 1967*

_____ moves to amend SF 810, as follows:

Delete everything after the enacting clause and insert the following:

"Section 1. [RESTRICTION ON MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION BY CERTAIN PERSONS.] Subdivision 1. [DEFINITIONS.]

For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the meanings given to them:

(a) "Salaried fire chief" means any person who is regularly employed ^{full time} for compensation by a municipality as defined in Minnesota Statutes, Section 69.011, Subdivision 1, Clause (b) or by an independent nonprofit firefighting corporation in the civil service commission classified position of fire chief or in the chief administrative or executive position in charge of the operation of the municipal fire department or the independent nonprofit firefighting corporation and is a member of the public employees retirement association, the public employees police and fire fund or a local salaried firefighters' relief association to which Minnesota Statutes, Section 69.77 applies by virtue of that employment.

(b) "Volunteer firefighter" means any person who serves on call for emergency duty as a regular active member of a municipal fire department or an independent nonprofit firefighting corporation, where the compensation for that service is not based on or is not a multiple of any rate of compensation being paid to the person by the municipal fire department or independent nonprofit firefighting corporation for duty other than on call emergency duty and is not used as a basis for the making of employee or employer contributions to the public employees retirement association or to the public employees police and fire fund.

Subd. 2. [RESTRICTION ON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION MEMBERSHIP.] No person who is employed as a salaried fire chief or who does not perform substantial services as a volunteer firefighter shall be entitled during any period while employed as a salaried fire chief or while not performing substantial services as a volunteer firefighter after

the effective date of this act to be a member of or to accrue any service credit in a volunteer firefighters' relief association to which Minnesota Statutes, Sections 69.771 to 69.776 apply.

Sec. 2. [PROPORTIONATE SERVICE PENSION IN CERTAIN CASES.] Any salaried fire chief ^{or volunteer firefighter} who is prohibited from further membership in or from accruing further service credit in a volunteer firefighters' relief association to which Minnesota Statutes, Sections 69.771 to 69.776 apply by operation of section 1 and who has not as of the effective date of this act received credit for sufficient years of service with the municipal fire department or the independent nonprofit firefighting corporation or for sufficient years of membership with the volunteer firefighters' relief association specified in the bylaws of the volunteer firefighters' relief association shall be entitled when otherwise-qualified to receive a proportionate service pension based on the number of completed years of service rounded to the nearest full year of service.

Sec. 3. [EFFECTIVE DATE.] This act is effective the day following final enactment."

Further, delete the title in its entirety and insert the following:

"A bill for an act

relating to retirement; prohibiting membership in a volunteer firefighters' relief association by certain persons."

SUBCOMMITTEE REPORT

TO: Mr. Chenoweth, Chairman

Committee on Governmental Operations

Mr. Stokowski, Chairman of the
Subcommittee on Personnel,

to which was referred S. F. No. 810, A bill for an act

2 relating to retirement; prohibiting volunteer
3 firefighters relief association membership for
4 fire chiefs.

Reports the same back with the recommendation that the bill
be amended as follows:

See attached amendments.

And when so amended that the bill pass.


Chairman

Subcommittee on Personnel

Date of Subcommittee action April 9, 1979

_____ moves to amend SF 810, HF 750, as follows:

Delete everything after the enacting clause and insert the following:

"Section 1. [RESTRICTION ON MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION BY CERTAIN PERSONS.] Subdivision 1. [DEFINITIONS.]

For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the meanings given to them:

(a) "Salaried fire chief" means any person who is regularly employed for compensation by a municipality as defined in Minnesota Statutes, Section 69.011, Subdivision 1, Clause (b) or by an independent nonprofit firefighting corporation in the civil service commission classified position of fire chief or in the chief administrative or executive position in charge of the operation of the municipal fire department or the independent nonprofit firefighting corporation and is a member of the public employees retirement association, the public employees police and fire fund or a local salaried firefighters' relief association to which Minnesota Statutes, Section 69.77 applies by virtue of that employment.

(b) "Volunteer firefighter" means any person who serves on a regular basis as an active member of a municipal fire department or an independent nonprofit firefighting corporation without becoming eligible for substantial compensation for that service and who is actively engaged

in the suppression of fire and the prevention of fire hazards. For purposes of this section, a firefighter shall be deemed to be eligible for substantial compensation for service on a regular basis as an active member of a municipal fire department or an independent nonprofit firefighting corporation when the annual total compensation from any hourly wage payments for that service exceeds an amount equal to twenty percent of the annualized average weekly wage paid by employers as defined in Minnesota Statutes, Section 268.07, Subdivision 2 or the established reimbursement for fire calls is payable on the basis of the number of hours of service during the fire call or established reimbursement payment rate for a fire call of three hours duration exceeds an amount equal to three times the minimum wage for employees who are

age 18 or older as defined in Minnesota Statutes, Section 177.24, Subdivision 1.

Subd. 2. [RESTRICTION ON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION MEMBERSHIP.] No person who is employed as a salaried fire chief or who does not perform substantial services as a volunteer firefighter shall be entitled during any period while employed as a salaried fire chief or while not performing substantial services as a volunteer firefighter after the effective date of this act to be a member of or to accrue any service credit in a volunteer firefighters' relief association to which Minnesota Statutes, Sections 69.771 to 69.776 apply.

Sec. 2. [PROPORTIONATE SERVICE PENSION IN CERTAIN CASES.] Any salaried fire chief who is prohibited from further membership in or from accruing further service credit in a volunteer firefighters' relief association to which Minnesota Statutes, Sections 69.771 to 69.776 apply by operation of section 1 and who has not as of the effective date of this act received credit for sufficient years of service with the municipal fire department or the independent nonprofit firefighting corporation or for sufficient years of membership with the volunteer firefighters' relief association specified in the bylaws of the volunteer firefighters' relief association shall be entitled when otherwise-qualified to receive a proportionate service pension based on the number of completed years of service rounded to the nearest full year of service.

Sec. 3. [EFFECTIVE DATE.] This act is effective the day following final enactment."

Further, delete the title in its entirety and insert the following:

"A bill for an act

relating to retirement; prohibiting membership in a volunteer firefighters' relief association by certain persons."

Amendment to SF 810, HF 750 (Stokowski Amendment)

The amendment provides that two different classes of persons, regularly employed salaried fire chiefs and active firefighters who do not perform substantial services as a volunteer firefighter, shall no longer be entitled to be members of or to accrue further service credit in a volunteer firefighters' relief association.

The salaried fire chief is defined as a person who is regularly employed in the civil service commission position of fire chief or in a chief administrative or executive position and has public pension fund coverage other than the volunteer firefighters' relief association. For purposes of determining when a firefighter does not perform substantial services as a volunteer firefighter, a volunteer firefighter is defined as a firefighter who does not receive substantial compensation for service in engaging in rescue work and in the suppression of fire and the prevention of fire hazards. A firefighter would not be deemed to have received substantial compensation unless the total annual compensation from hourly wage payments exceeds twenty percent of the annualized average weekly wage used for computing unemployment compensation benefits (\$2,164.96) or unless the reimbursement for fire calls is payable on the basis of the number of hours of service or the reimbursement payment rate for fire calls for a call of three hours duration exceeds an amount equal to three times the minimum wage amount (\$6.90).

Salaried fire chiefs who are prohibited from further fund membership and further accrual of service credit and who have not attained sufficient service credit to attain a vested service pension would be entitled to a proportionate service pension so that the bill would not work a forfeiture for any fire chiefs who lack sufficient service to vest.

TO: LCP&R

FROM: Stephen Harrington

RE: SF 810 (Stokowski); SF 750 (Patton): Volunteer Firefighters' Relief Associations; prohibiting coverage for certain firechiefs

DATE: March 26, 1979

Summary of Bill

The bill prohibits city employees who are either members of the Public Employees Retirement Association or a local salaried firefighters' relief association because of their employment as fire chief or in a comparable situation or administrative position from future membership in or future accrual of service credit from a volunteer firefighters' relief association. The prohibition is effective immediately upon enactment.

Discussion

Last session, some members of the Commission attempted to correct what those members perceived to be an inappropriate double public pension coverage situation concerning the fire chief for the city of Brainerd. The bill which related to the purchase of prior service as a firefighter by the fire chief involved, died in conference committee, but did give rise to further consideration of the problem by the Commission over the interim.

In many cities where there is a partially paid and partially volunteer fire department, the fire chief is frequently a full time employee of the city and therefore eligible for pension coverage in the Public Employees Retirement Association Police and Fire Fund (PERS P&F) or a local salaried firefighters relief association. Some cities having partially paid and partially volunteer fire departments have no designated position of fire chief, but have instead a public safety director who is a member of the PERA general fund.

The fire chiefs and public safety directors by the nature of their positions are "on call" when needed and have no service with the fire department which they can perform on a volunteer basis. They however can and frequently do earn a service credit as a member of the volunteer association without performing any additional duties at the same time as they earn a service credit in PERA. The bill attempts to remedy this situation of double pension coverage by a fire chief or public safety director without performing additional services by prohibiting further membership in or accrual of service credit during the time that the person earns service credit for the salaried employment.

Amendment

The staff amendment is intended to clarify the double membership restriction so that mere membership in PERA does not preclude membership in a volunteer association unless the PERA membership is incidental to employment as a fire chief or comparable executive administrative service. It has been brought to the attention of the staff that the prohibition on volunteer coverage as drafted could be interpreted to apply to a regular PERA member employed for a city in other than a firefighting position who happens to be a non-salaried fire chief as part of service as a volunteer firefighter.

Introduced by Stokowski, Strand, Renneke, Ogdahl and Peterson.
Read First Time Mar. 8, 1979, and Referred to
the Committee on Governmental Operations.
Committee Recommendation. To Pass as Amended.
Committee Report Adopted Apr. 23, 1979.
Read Second Time Apr. 23, 1979.
Referred to the Subcommittee on Bill Scheduling Apr. 23, 1979.

1 A bill for an act

2 relating to retirement; prohibiting membership in
3 a volunteer firefighters' relief association by
4 certain persons.

5

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

7 Section 1. [RESTRICTION ON MEMBERSHIP IN A VOLUNTEER
8 FIREFIGHTERS' RELIEF ASSOCIATION BY CERTAIN PERSONS.]

9 Subdivision 1. [DEFINITIONS.] For purposes of this
10 section, unless the context clearly indicates otherwise,
11 the following terms shall have the meanings given to them:

12 (a) "Salaried fire chief" means any person who is
13 regularly employed full time for compensation by a
14 municipality as defined in Minnesota Statutes, Section
15 69.011, Subdivision 1, Clause (b), or by an independent
16 nonprofit firefighting corporation in the civil service
17 commission classified position of fire chief or in the
18 chief administrative or executive position in charge of the
19 operation of the municipal fire department or the
20 independent nonprofit firefighting corporation and is a
21 member of the public employees retirement association, the
22 public employees police and fire fund or a local salaried

1 firefighters' relief association to which Minnesota
2 Statutes, Section 69.77 applies by virtue of that
3 employment.

4 (b) "Volunteer firefighter" means any person who
5 serves on call for emergency duty as a regular active
6 member of a municipal fire department or an independent
7 nonprofit firefighting corporation, where the compensation
8 for that service is not based on or is not a multiple of
9 any rate of compensation being paid to the person by the
10 municipal fire department or independent nonprofit
11 firefighting corporation for duty other than on call
12 emergency duty, and is not used as a basis for the making
13 of employee or employer contributions to the public
14 employees retirement association or to the public employees
15 police and fire fund.

16 Subd. 2. [RESTRICTION ON VOLUNTEER FIREFIGHTERS'
17 RELIEF ASSOCIATION MEMBERSHIP.] No person who is employed
18 as a salaried fire chief or who does not perform
19 substantial services as a volunteer firefighter shall be
20 entitled during any period while employed as a salaried
21 fire chief or while not performing substantial services as
22 a volunteer firefighter after the effective date of this
23 act to be a member of or to accrue any service credit in a
24 volunteer firefighters' relief association to which
25 Minnesota Statutes, Sections 69.771 to 69.776, apply.

26 Sec. 2. [PROPORTIONATE SERVICE PENSION IN CERTAIN
27 CASES.] Any salaried fire chief or volunteer firefighter
28 who is prohibited from further membership in or from
29 accruing further service credit in a volunteer
30 firefighters' relief association to which Minnesota
31 Statutes, Sections 69.771 to 69.776, apply by operation of
32 section 1, and who has not as of the effective date of this
33 act received credit for sufficient years of service with

1 the municipal fire department or the independent nonprofit
2 firefighting corporation or for sufficient years of
3 membership with the volunteer firefighters' relief
4 association specified in the bylaws of the volunteer
5 firefighters' relief association, shall be entitled when
6 otherwise qualified to receive a proportionate service
7 pension based on the number of completed years of service
8 rounded to the nearest full year of service.

9 Sec. 3. [EFFECTIVE DATE.] This act is effective the
10 day following final enactment.

1 A bill for an act
2 relating to retirement; excluding volunteer
3 firefighters from membership in the public employees
4 retirement association and the police and fire fund;
5 amending Minnesota Statutes 1986, sections 353.01,
6 subdivisions 2b, 10, and by adding a subdivision; and
7 353.64, subdivision 1.

8

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

10 Section 1. Minnesota Statutes 1986, section 353.01, is
11 amended by adding a subdivision to read:

12 Subd. 35. [VOLUNTEER FIREFIGHTER.] "Volunteer firefighter"
13 means a person who serves on call for emergency duty as a
14 regular active member of a municipal fire department or an
15 independent nonprofit firefighting corporation, and whose
16 compensation for that service (1) is not based on or is not a
17 multiple of any rate of compensation being paid that person by
18 the municipal fire department or independent nonprofit
19 firefighting corporation for duty other than on call emergency
20 duty; and (2) is not used as a basis for the making of employee
21 or employer contributions to the public employees retirement
22 association or to the public employees police and fire fund.

23 Sec. 2. Minnesota Statutes 1986, section 353.01,
24 subdivision 2b, is amended to read:

25 Subd. 2b. [EXCLUDED EMPLOYEES.] The following persons are
26 excluded from the meaning of "public employee":

1 (a) Persons employed for professional services where such
2 service is incidental to regular professional duties.

3 (b) Election officers.

4 (c) Independent contractors and their employees.

5 (d) Patient and inmate help in governmental subdivision
6 charitable, penal and correctional institutions.

7 (e) Members of boards, commissions, bands and others who
8 serve the governmental subdivision intermittently.

9 (f) Employees who hold positions of an essentially
10 temporary or seasonal character, provided such employment does
11 not continue for a period in excess of 120 working days in any
12 calendar year. Immediately following the expiration of such 120
13 working days if such employees continue in public service and
14 earn in excess of \$325 in any one calendar month, the department
15 heads must then report all such employees for membership and
16 must cause employee contributions to be made on behalf of such
17 employees in accordance with section 353.27, subdivision 4, and
18 they shall remain members until termination of public service.

19 (g) Part-time employees who receive monthly compensation
20 not exceeding \$325, and part-time employees and elected
21 officials whose annual compensation is stipulated in advance to
22 be not more than \$3,900 per year, except that members shall
23 continue their membership until termination of public service.

24 (h) Persons who first occupy an elected office after March
25 1, 1978, the compensation for which does not exceed \$325 per
26 month.

27 (i) Emergency employees who are employed by reason of work
28 caused by fire, flood, storm or similar disaster.

29 (j) Employees who by virtue of their employment are
30 required to contribute to any other pension, relief or
31 retirement fund established for the benefit of officers and
32 employees of a governmental subdivision, except as an act of the
33 legislature has specifically enabled participation by employees
34 of a designated governmental subdivision in a plan supplemental
35 to the public employees retirement association; provided that
36 this clause shall not prevent a person from contributing to the

1 public employees retirement association and also belonging to or
2 contributing to another public pension fund for other service
3 occurring during the same period of time.

4 (k) Police matrons employed in a police department of any
5 city who are transferred to the jurisdiction of a joint city and
6 county detention and corrections authority.

7 (l) Chaplains and nuns who have taken a vow of poverty as
8 members of a religious order.

9 (m) Full-time students who are enrolled and are regularly
10 attending classes at an accredited school, college or
11 university; provided, no person employed full time by a
12 governmental subdivision shall be exempt under this paragraph.

13 (n) Resident physicians, medical interns and pharmacist
14 interns who are serving in public hospitals.

15 (o) Appointed or elected officers, paid entirely on a fee
16 basis, and who were not members on June 30, 1971.

17 (p) Nothing in Laws 1973, chapter 753 shall be interpreted
18 to impair or revoke any option exercised under Laws 1963,
19 chapter 793.

20 (q) Persons employed in subsidized on-the-job training,
21 work experience or public service employment as enrollees under
22 the federal Comprehensive Employment and Training Act from and
23 after March 30, 1978, unless the person has as of the later of
24 March 30, 1978 or the date of employment sufficient service
25 credit in the retirement fund to meet the minimum vesting
26 requirements for a deferred retirement annuity, or the employer
27 agrees in writing on forms prescribed by the executive director
28 to make the required employer contributions, including any
29 employer additional contributions, on account of that person
30 from revenue sources other than funds provided under the federal
31 Comprehensive Training and Employment Act, or the person agrees
32 in writing on forms prescribed by the executive director to make
33 the required employer contributions in addition to the required
34 employee contribution.

35 (r) Town, city or county assessors elected or appointed
36 pursuant to chapter 273 who do not receive compensation in

1 excess of \$325 per month from any one employing governmental
2 subdivision or who are employed pursuant to an employment
3 contract which sets forth the total compensation to be paid and
4 the length of service, not to exceed three months in duration,
5 required for the performance of the contract and which was
6 entered into in advance of the commencement of employment.

7 (s) A person holding a part time adult supplementary
8 vocational technical school license who renders part time
9 teaching service in a vocational technical school if (1) the
10 service is incidental to the person's regular nonteaching
11 occupation; and (2) the applicable vocational technical school
12 stipulates annually in advance that the part time teaching
13 service will not exceed 300 hours in a fiscal year; and (3) the
14 part time teaching service actually does not exceed 300 hours in
15 a fiscal year.

16 (t) A person exempt from licensure pursuant to section
17 125.031.

18 (u) Volunteer firefighters.

19 Sec. 3. Minnesota Statutes 1986, section 353.01,
20 subdivision 10, is amended to read:

21 Subd. 10. [SALARY.] "Salary" means the periodical
22 compensation of any public employee, before deductions for
23 deferred compensation or supplemental retirement plans, and also
24 means "wages" and includes net income from fees. Fees paid to
25 district court reporters shall not be considered a salary. Lump
26 sum annual leave payments and severance payments shall not be
27 deemed to be salary. Prior to the time that all sick leave has
28 been used, amounts paid to an employee pursuant to a disability
29 insurance policy or program where the employer paid the premiums
30 shall be considered salary, and after all sick leave has been
31 used, the payment shall not be considered salary. Workers'
32 compensation payments shall not be considered
33 salary. Compensation paid to a volunteer firefighter shall not
34 be considered salary.

35 Sec. 4. Minnesota Statutes 1986, section 353.64,
36 subdivision 1, is amended to read:

1 Subdivision 1. Any person who prior to July 1, 1961, was a
2 member of the police and fire fund, by virtue of being a police
3 officer or firefighter, shall as long as the person remains in
4 either position, be deemed to continue membership in the fund.
5 Any person who was employed by a governmental subdivision as a
6 police officer and was a member of the police and fire fund on
7 July 1, 1978 by virtue of being a police officer as defined by
8 this section on that date shall be entitled, if employed by the
9 same governmental subdivision in a position in the same
10 department in which the person was employed on that date, to
11 continue membership in the fund whether or not that person has
12 the power of arrest by warrant after that date. Any other
13 employee serving on a full-time basis as a police officer or
14 firefighter on or after July 1, 1961, shall become a member of
15 the public employees police and fire fund. Any employee serving
16 on less than a full-time basis as a police officer shall become
17 a member of the public employees police and fire fund only after
18 a resolution is adopted by the governing body of the
19 governmental subdivision employing the person declaring that the
20 position which the person holds is that of a police officer.
21 Any employee serving on less than a full-time basis as a
22 firefighter, other than a volunteer firefighter, shall become a
23 member of the public employees police and fire fund only after a
24 resolution is adopted by the governing body of the governmental
25 subdivision employing the person declaring that the position
26 which the person holds is that of a firefighter. A volunteer
27 firefighter and any police officer or firefighter who by virtue
28 of that employment is required to contribute to any other
29 pension, relief, or retirement fund established for the benefit
30 of officers or employees of a governmental subdivision other
31 than-a-volunteer-firefighters-relief-association-to-which
32 sections-69-771-to-69-776-apply shall not be a member of this
33 fund.

34 Sec. 5. [EFFECTIVE DATE.]

35 Sections 1 to 4 are effective July 1, 1987.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *lam*

RE: Exclusion of Volunteer Firefighters from PERA-P&F

S.F. 818 (Morse); H.F. 800 (Reding): PERA; General Exclusion of Volunteer Firefighters
 S.F. 1024 (Laidig); H.F. 503 (Swenson): PERA; Forest Lake Volunteer Firefighters Exclusion
 S.F. 183 (Reichgott); H.F. 439 (Carlson, L.): PERA; Robbinsdale Volunteer Firefighters Exclusion
 S.F. 310 (Merriam); H.F. 447 (Weaver): PERA; Anoka-Champlin Volunteer Firefighters Exclusion
 S.F. 635 (Dahl); H.F. 587 (Lynch): PERA; Andover Volunteer Firefighters Exclusion
 S.F. 693 (Frank); H.F. 839 (Simoneau): PERA; Columbia Hgts Volunteer Firefighters Exclusion
 S.F. 792 (Luther); H.F. 791 (Schreiber): PERA; Brooklyn Park Volunteer Firefighters Exclusion
 S.F. 1096 (Hughes); H.F. 1262 (Valento): PERA; Roseville Volunteer Firefighter Exclusion

DATE: March 23, 1989

Summary of the Bills

The bills provide either generally (S.F. 818 (Morse) and H.F. 800 (Reding)) or with respect to particular municipalities (balance of the bills, affecting six municipalities or fire departments) for the exclusion of volunteer firefighters from the Public Employees Retirement Association (PERA) or the Public Employees Police and Fire Fund (PERA-P&F). The particular municipalities are Andover, Anoka-Champlin, Brooklyn Park, Columbia Heights, Forest Lake, Roseville and Robbinsdale.

Background on Pension Coverage for Firefighters

Firefighters in Minnesota have pension coverage by the Public Employees Police and Fire Fund (PERA-P&F), a local paid firefighters relief association, a local volunteer firefighters relief association or a combination of local volunteer firefighters relief association and PERA-P&F for that service within the same municipality.

Full time paid firefighters in 18 Minnesota municipalities employed before June 15, 1980 and full time paid firefighters in the City of Crookston have their retirement coverage provided for that employment by local paid firefighters relief associations. A few of these municipal fire departments have had volunteer firefighters in addition to full time paid firefighters, and these volunteer firefighters have either separate retirement coverage by the relief association or have a separate division in the relief association with appropriate benefit coverage. Full time paid firefighters either do not also function as volunteers in these municipalities or do not receive additional retirement benefit coverage for that volunteer service.

Full time paid firefighters in the remaining Minnesota municipalities and the full time paid firefighters in the 18 municipalities with local paid firefighters relief associations who are employed after June 15, 1980 have their retirement coverage provided for that employment by PERA-P&F. Frequently, municipalities that employ full time paid firefighters with PERA-P&F retirement coverage do not have wholly paid fire departments, but have fire departments comprised of a combination of full time paid firefighters and volunteer firefighters. These partially paid and partially volunteer fire departments may range from one full time paid firefighter (the fire chief or a fire equipment driver or operator) and the balance of volunteer firefighters to a greater mix in personnel with more full time paid supervisors and equipment operators augmented by volunteer firefighters. In these cases, there usually is a volunteer fire relief association and all firefighters, including any paid firefighters, are covered by it.

Volunteer firefighters in Minnesota (approximately 600 city and township fire departments and 30-50 independent nonprofit firefighting corporations) have retirement coverage primarily from local volunteer firefighters relief associations. Volunteer firefighters are not required to have retirement coverage, but usually have coverage provided by a volunteer firefighters relief association established locally and subject to local regulation beyond conformance with a few statutory minimums and maximums. A certain number of volunteer firefighters have retirement coverage by either the Public Employees Retirement Association (PERA) or by PERA-P&F, and this would be in addition to any volunteer firefighters relief association retirement coverage. Volunteer firefighters who are compensated for their firefighting services may be required to have PERA or PERA-P&F retirement coverage. This will occur if that compensation exceeds \$425 in any month and total annual compensation is not stipulated in writing in advance by the municipality to be less than \$5,100 or actually exceeds \$5,100 annually. Coverage would be by PERA if the municipal governing body did not certify the position as that of a firefighter under Minnesota Statutes, Section 353.64, Subdivision 3, or PERA-P&F if the municipal governing body did make the necessary certification.

A volunteer firefighters relief association may be established by a fire department composed wholly or primarily of full time paid firefighters with PERA-P&F coverage. Minnesota Statutes, Chapter 424A, the law governing volunteer firefighters retirement coverage, does not define the term "volunteer firefighter" or the duties that

constitute volunteer fire service. The extent of those duties required to constitute a year of service credit are defined by the relief association locally. Hence, full time paid firefighters who perform no additional firefighting service or perform only overtime firefighting service may have volunteer firefighters relief association coverage. Under the federal Fair Labor Standards Act and the recent United States Supreme Court ruling in the Garcia v. San Antonio case, full time paid firefighters are deemed by law have no service that they can legitimately volunteer to their municipality and any after hours firefighting service rendered by a full time paid firefighter is required to be compensated by the municipality, and potentially at an overtime compensation rate.

Discussion

The various bills attempt to restrict pension coverage for volunteer firefighters to the applicable volunteer firefighters relief association by excluding volunteer firefighters from the Public Employees Retirement Association (PERA) and the Public Employees Police and Fire Fund (PERA-P&F). Six of the bills impose an exclusion of volunteer firefighters from PERA or PERA-P&F for volunteer firefighters in particular municipalities. One bill provides a generally applicable statewide exclusion. In 1987, an exclusion of Plymouth volunteer firefighters from PERA or PERA-P&F was enacted, and in 1988, an exclusion of Minnetonka volunteer firefighters from PERA or PERA-P&F was enacted.

There are several public pension policy issues that arise in connection with the bills. These issues are:

1. Question of a Problem Meriting a Solution. The chief public pension policy issue is whether or not there is a problem of PERA or PERA-P&F coverage for volunteer firefighters that merits legislative action on an exclusion. From the perspective of regular volunteer firefighters, an exclusion is desirable because the firefighters do not consider themselves to be public employees and are disconcerted by public employee pension fund membership, do not appreciate having to make the PERA or PERA-P&F member contribution (4.00 percent of compensation or 8.00 percent of compensation, respectively), even though the amount is fully refundable, and may even suffer a loss of Individual Retirement Account (IRA) eligibility under federal tax law by virtue of the requirement that they be members of PERA or PERA-P&F. From the perspective of the affected municipalities, an exclusion is desirable because the municipalities do not wish to make the PERA or PERA-P&F municipal contribution (4.25 percent of compensation or 12.00 percent of compensation, respectively) or to be required to undertake the employee contribution deduction or reporting responsibilities. From a broad pension policy perspective, an exclusion is generally desirable for most or all volunteer firefighters because of the potential for double pension coverage for the same service, the potential for overgenerous total benefit coverage for some volunteer firefighters and the potential for generating a windfall PERA or PERA-P&F benefit due to the undifferentiated and potentially very generous manner in which PERA credits service.
2. Need for a General Solution or a Local Solution. If an exclusion solution appears desirable, a major pension policy issue is whether a general solution or a local solution to the exclusion question is the most appropriate. A general solution is well suited if the problem is of broad geographical application or is of general substantive application. It is also desirable in order to avoid the inefficient use of legislative time and effort that numerous and successive local legislative proposals entail. A local solution is well suited if the problem and solution are dependent on very particularized facts, like the specific nature of volunteer firefighter duties in each municipality, that cannot be adequately set forth in a generalized statutory provision or definition or if the general solution to the problem may take some period of time to resolve but the local problem demands a more timely solution.
3. Impact on Mandatory Membership Policy. Unlike some other states, Minnesota has generally required that all public sector employees have public pension plan coverage, with a few very specific detailed exceptions or exclusions. In adding exclusions to PERA and PERA-P&F, the pension policy question of consistency of the exclusion with the mandatory membership policy must be considered. A poorly drafter or ambiguous exclusion provision may allow employing units that seek to avoid the PERA or PERA-P&F employer contribution requirement for some of their employees to mischaracterize other municipal employees as volunteer firefighters and gain their exclusion in that manner.

HF 800
Reding

Senators Morse, Reichgott, Frank, Merriam and Renneke introduced--
S.F. No. 818 Referred to the Committee on Governmental Operations

1 A bill for an act

2 relating to retirement; public employees retirement
3 association; excluding volunteer firefighters from
4 membership; amending Minnesota Statutes 1988, section
5 353.01, subdivision 2b.

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

7 Section 1. Minnesota Statutes 1988, section 353.01,
8 subdivision 2b, is amended to read:

9 Subd. 2b. [EXCLUDED EMPLOYEES.] (a) The following persons
10 are excluded from the meaning of "public employee":

11 (1) persons employed for professional services where the
12 service is incidental to regular professional duties, determined
13 on the basis that compensation for the service amounts to no
14 more than 25 percent of the person's total annual gross earnings
15 for all professional duties;

16 (2) election officers;

17 (3) independent contractors and their employees;

18 (4) patient and inmate help in governmental subdivision
19 charitable, penal, and correctional institutions;

20 (5) members of boards, commissions, bands, and others who
21 serve the governmental subdivision intermittently;

22 (6) employees whose employment is not expected to continue
23 for a period longer than six consecutive months;

24 (7) part-time employees who receive monthly compensation
25 from a governmental subdivision not exceeding \$425, and

1 part-time employees and elected officials whose annual
2 compensation from a governmental subdivision is stipulated in
3 advance, in writing, to be not more than \$5,100 per calendar
4 year or per school year for school employees for employment
5 expected to be of a full year's duration or more than the
6 prorated portion of \$5,100 per employment period for employment
7 expected to be of less than a full year's duration, except that
8 members continue their membership until termination of public
9 service;

10 (8) persons who first occupy an elected office after July
11 1, 1988, the compensation for which does not exceed \$425 per
12 month;

13 (9) emergency employees who are employed by reason of work
14 caused by fire, flood, storm, or similar disaster;

15 (10) employees who by virtue of their employment as an
16 officer or employee of a governmental subdivision are required
17 by law to be a member of and to contribute to any of the plans
18 or funds administered by the state employees retirement system,
19 the teachers retirement fund, the state patrol retirement fund,
20 the Duluth teachers retirement fund association, the Minneapolis
21 teachers retirement fund association, the St. Paul teachers
22 retirement fund association, the Minneapolis employees
23 retirement fund, the Minnesota state retirement system
24 correctional officers retirement plan, or any police or
25 firefighters relief association governed by section 69.77 that
26 has not consolidated with the public employees police and fire
27 fund and for which the employee has not elected coverage by the
28 public employees police and fire fund benefit plan as provided
29 in sections 353A.01 to 353A.10, other than as an act of the
30 legislature has specifically enabled participation by employees
31 of a designated governmental subdivision in a plan supplemental
32 to the public employees retirement association;

33 (11) police matrons employed in a police department of a
34 city who are transferred to the jurisdiction of a joint city and
35 county detention and corrections authority;

36 (12) persons who are excluded from coverage under the

1 federal old age, survivors, disability, and health insurance
2 program for the performance of service as specified in United
3 States Code, title 42, section 410(a) (8) (A), as amended
4 through January 1, 1987;

5 (13) full-time students who are enrolled and are regularly
6 attending classes at an accredited school, college, or
7 university and who are not employed full time by a governmental
8 subdivision;

9 (14) resident physicians, medical interns, and pharmacist
10 interns who are serving in public hospitals;

11 (15) appointed or elected officers, paid entirely on a fee
12 basis, who were not members on June 30, 1971;

13 (16) persons holding a part-time adult supplementary
14 technical institute license who render part-time teaching
15 service in a technical institute if the service is incidental to
16 the person's regular nonteaching occupation, the applicable
17 technical institute stipulates annually in advance that the
18 part-time teaching service will not exceed 300 hours in a fiscal
19 year, and the part-time teaching service actually does not
20 exceed 300 hours in a fiscal year; and

21 (17) persons exempt from licensure under section 125.031;
22 and

23 (18) volunteer firefighters engaging in activities
24 undertaken as part of volunteer firefighter duties who receive
25 credit for those activities in a fund operating pursuant to
26 chapter 424A.

27 (b) Immediately following the expiration of a six-month
28 period of employment by an employee covered by paragraph (a),
29 clause (6), if the employee continues in public service and
30 earns more than \$425 from a governmental subdivision in any one
31 calendar month, the department head shall report the employee
32 for membership and cause employee contributions to be made on
33 behalf of the employee in accordance with section 353.27,
34 subdivision 4, and the employee remains a member until
35 termination of public service. This paragraph may not be
36 construed to exclude an employee from membership whose

1 employment is expected to continue for more than six months but
2 who is serving a probationary period.

3 (c) If compensation from a governmental subdivision to an
4 employee covered by paragraph (a), clause (7), exceeds \$5,100
5 per calendar year or school year after being stipulated in
6 advance, the stipulation is no longer valid and contributions
7 must be made on behalf of the employee in accordance with
8 section 353.27, subdivision 12, from the month in which the
9 employee first exceeded \$425.

10 (d) Paragraph (a), clause (10), does not prevent a person
11 from being a member of and contributing to the public employees
12 retirement association and also belonging to or contributing to
13 another public pension fund for other service occurring during
14 the same period of time. A person who meets the definition of
15 "public employee" in subdivision 2, by virtue of other service
16 occurring during the same period of time shall become a member
17 of the association unless contributions are made to another
18 public retirement fund on the salary based on the other service
19 or to the teachers retirement association in accordance with
20 section 354.05, subdivision 2.

21 (e) No volunteer firefighter who is, on the effective date
22 of this act, a member of the public employees retirement
23 association and making contributions for services including
24 volunteer firefighting services shall be barred by paragraph
25 (a), clause (18), from continued public employees retirement
26 association coverage for continued volunteer firefighting
27 services with the same department. No volunteer firefighter or
28 public employer shall be required to make back contributions to
29 the public employees retirement association for past volunteer
30 firefighting services.

31 Sec. 2. [EFFECTIVE DATE.]

32 Section 1 is effective July 1, 1989.

"Delete Everything" Amendment to House File 800

This delete everything amendment does the following:

- * It excludes from the PERA definition of "public employee" volunteer firefighters, as defined, subject to certain exceptions.
- * It excludes from the PERA definition of "salary" compensation of any kind paid to a volunteer firefighter, subject to certain exceptions.
- * It defines "volunteer firefighter."
- * It allows volunteer firefighters who were participating in a PERA fund prior to July 1, 1989 on account of their volunteer firefighter service and compensation to continue to participate in that fund and their compensation for volunteer firefighter services will be considered salary for that purpose. However, these volunteer firefighter participants in PERA administered funds will be given the opportunity to terminate their participation in their PERA fund. This option must be exercised by June 30, 1990 and if the option is exercised the volunteer firefighter will be given a refund of employee contributions plus interest at 5 percent compounded annually.
- * Finally, it gives a volunteer firefighter who is a participant in a PERA fund on account of governmental service other than service as a volunteer firefighter, the option of having the volunteer firefighter service and compensation credited to the PERA fund in which the individual is participating, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan.

M..... moves to amend H.F. No. 800 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] (a) The following persons are excluded from the meaning of "public employee":

(1) persons employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate help in governmental subdivision charitable, penal and correctional institutions;

(5) members of boards, commissions, bands, and others who serve the governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months;

(7) part-time employees who receive monthly compensation from a governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration of more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment as an officer or employee of a governmental subdivision are required by law to be a

member of and to contribute to any of the plans or funds administered by the state employees retirement system, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association;

(11) police matrons employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist interns who are serving in public hospitals;

(15) appointed or elected officers, paid entirely on a fee basis, who were not members on June 30, 1971;

(16) persons holding a part-time adult supplementary technical institute license who render part-time service in a technical institute if the service is incidental to the person's regular nonteaching occupation, the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year;

(17) persons exempt from licensure under section 125.031; and

(18) except as provided in section 353.86, volunteer firefighters, as defined in subdivision 35, engaging in activities undertaken as part of volunteer firefighter duties, but a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Workers' compensation payments are not considered salary. Except as provided in section 353.86, compensation of any kind paid to a volunteer firefighter, as defined in subdivision 35, is not considered salary. For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which members contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 3. Minnesota Statutes 1988, section 353.01, is amended by adding a new subdivision to read:

Subd. 35. [VOLUNTEER FIREFIGHTER.] For purposes of this chapter, a person is considered a volunteer firefighter if the person's hours of service as a volunteer firefighter for a governmental unit are provided with no promise, expectation or receipt of compensation for the service rendered, except for reimbursement of expenses, reasonable benefits, normal fees, or a combination thereof.

Sec. 4. Minnesota Statutes 1988, Chapter 353, is amended to add a new section to read:

353.86. VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.

Subdivision 1. [PARTICIPATION.] Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 35, who, before July 1, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. [OPTION.] A volunteer firefighter to whom subdivision 1 applies shall have the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. [LIMITATION.] No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter shall be required to make back contributions to the public employees retirement association for past volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. [REFUND.] Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a

volunteer firefighter to whom subdivision 1 applies shall be given a refund of all past employee contributions made on account of volunteer firefighter service with five percent interest compounded annually.

Subd. 5. FURTHER OPTION]. A volunteer firefighter, as defined in section 353.01, subdivision 35, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation for services other than services as a volunteer firefighter shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the non-volunteer firefighter service is performed for another governmental unit.

Sec. 5. Minnesota Statutes 1988, section 353.64, subdivision 1, is amended to read:

Subdivision 1. [POLICE AND FIRE FUND MEMBERSHIP.] Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978, by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01

to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, other than a volunteer firefighter, shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter, other than a volunteer firefighter, employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 other than a volunteer firefighters relief association to which sections 69-771 to 69-776 apply, shall not be a member of this fund.

Sec. 6. [EFFECTIVE DATE.] Sections 1 through 5 are effective July 1, 1989."

Delete the title and insert:

"H.F. No. 800, A bill for an act relating to retirement; public employees retirement association; excluding volunteer firefighters from the definition of "public employee"; amending Minnesota Statutes 1988, section 353.01, subdivision 2b and 10 and adding subdivision 35; adding new section 353.86."

- (42) (14) employees of the range association of municipalities and schools;
- (43) (15) employees of the soil and water conservation districts;

(44) (16) employees of a county historical society who are county employees;

(45) (17) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;

(46) (18) employees of an economic development authority created under sections 458C.01 to 458C.23;

(47) (19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters; and

(20) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** (a) The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate help personnel who perform services in governmental subdivisions charitable, penal, and or correctional institutions of a governmental subdivision;

(5) members of boards, commissions, bands, and others who serve the governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months, unless it involves employment for a probationary period that is part of a permanent position. Immediately following the expiration of a six-month period of employment, if the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for

New language is indicated by underline, deletions by strikethrough.

membership and require employee deductions be made on behalf of the employee in accordance with section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and part-time positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions:

(7) part-time employees who receive monthly compensation from a one governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public services. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425:

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment as an officer or employee of a one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system; the teachers retirement fund; the state patrol retirement fund; the Duluth teachers retirement fund association; the Minneapolis teachers retirement fund association; the St. Paul teachers retirement fund association; the Minneapolis employees retirement fund; the Minnesota state retirement system correctional officers retirement plan; or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 553A.01 to 553A.10; other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees

New language is indicated by underline, deletions by strikethrough.

retirement fund, or any police or firefighters relief association governed by section 59.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2.

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree of residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers, who are paid entirely on a fee basis; and who were not members on June 30, 1971;

(16) persons holding who hold a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation; the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year; and the part-time teaching service actually does not exceed 300 hours in a fiscal year; and;

(17) persons exempt from licensure under section 125.031;

(18) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association

New language is indicated by underline, deletions by ~~strikeout~~.

and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(19) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6); if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance; the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10); does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. SALARY. "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters

New language is indicated by underline, deletions by ~~strikeout~~.

are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not considered salary. For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 11a. TERMINATION OF PUBLIC SERVICE. An officer or employee who terminates employment but within 30 days returns to employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).

Sec. 5. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 35. VOLUNTEER AMBULANCE SERVICE PERSONNEL. "Volunteer ambulance service personnel," for purposes of this chapter, are basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity.

Sec. 6. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 36. VOLUNTEER FIREFIGHTER. For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A.

New language is indicated by underlining, deletions by ~~striking out~~.

Sec. 7. Minnesota Statutes 1988, section 353.27, subdivision 12, is amended to read:

Subd. 12. OMITTED SALARY DEDUCTIONS; OBLIGATIONS. In the case of omission of required deductions from salary of an employee, past due for 60 days or less; the head of the department shall deduct from the employee's next salary payment and remit to the executive director the amount of the employee contribution delinquent; with the department head shall immediately, upon discovery, report the employee for membership and require employee deductions be made in accordance with subdivision 4. Omitted employee deductions due for the 60-day period preceding enrollment must be deducted from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions past due and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each delinquent omitted employee contribution was first payable. The interest must be paid by the employer. Omitted required deductions past due for a period in excess of 60 days are the sole obligation of the governmental subdivision from the time the deductions were first payable, together with interest as specified in this subdivision. Any amount so due; together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a; with interest at the rate of six percent compounded annually from the date they were first payable; from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer. Unless otherwise indicated; An employer shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay omitted employee deductions when an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it. No action for the recovery of omitted employee and employer contributions or interest on contributions may be commenced and no payment of omitted contributions may be made or accepted unless the association has already commenced action for recovery of omitted contributions. The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for the recovery of omitted contributions or interest commences five calendar days after on the date of the mailing of any written correspondence from the association requesting information from the governmental unit that may lead to a recovery of omitted contributions subdivision upon which to determine whether or not omitted deductions occurred.

New language is indicated by underlining, deletions by ~~striking out~~.

for services other than services as a volunteer firefighter shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the nonvolunteer firefighter service is performed for another governmental unit.

Sec. 25. Laws 1985, chapter 11, section 12, subdivision 3, is amended to read:

Subdivision 3. **ELECTION PROCEDURES.** The board shall accept filings for one elected position on the board in November 1985 and shall conduct an election for that position in January 1986. The board shall accept filings for two elected positions on the board in November 1986 and shall conduct an election for those positions in January 1987. Notwithstanding the four-year term of office specified in Minnesota Statutes, section 353.03, subdivision 1, the term of office for the January 1986 elected position extends through January 1991, so that all three elected positions are four-year terms which begin and end at the same time. Thereafter, the board shall follow the election procedures described in Minnesota Statutes, section 353.03, subdivision 1, as necessary to fill the positions of elected trustees.

Sec. 26. **REPEALER.**
Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662, are repealed.

Sec. 27. **EFFECTIVE DATE.**
(a) Sections 1 to 26 are effective July 1, 1989.
(b) The past due excess police state aid interest charge provided for in section 8 is retroactive to July 1, 1989.

ARTICLE 4
PURCHASE OF PRIOR SERVICE CREDIT

Section 1. **PURCHASE OF CREDIT FOR CERTAIN PRIOR SERVICE.**
Subdivision 1. **HIGHLAND GOLF COURSE EMPLOYEE.** A person who was born on October 1, 1925, who was a member of the public employees retirement association as of December 1, 1988, who is a seasonal employee of the city of St. Paul at the Highland golf course, and who was employed in that capacity between June 25, 1979, and July 31, 1984, is entitled to purchase allowable service credit from the public employees retirement association for

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public employees retirement fund or the public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.

Subd. 3. **LIMITATION.** Volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 and their governmental employers are not required to pay omitted deductions and contributions under section 353.27, subdivision 12, for volunteer ambulance service rendered before July 1, 1989.

Subd. 4. **COMPENSATION.** Notwithstanding section 353.01, subdivision 10, compensation received for service rendered by volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 shall be considered salary.

Sec. 24. **[353.87] VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.**

Subdivision 1. **PARTICIPATION.** Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 36, who, on June 30, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. **OPTION.** A volunteer firefighter to whom subdivision 1 applies has the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. **LIMITATION.** No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter is required to make back contributions to the public employees retirement association for volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. **REFUND.** Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a volunteer firefighter to whom subdivision 1 applies must be given a refund of all past employee contributions made on account of volunteer firefighter service with five percent interest compounded annually.

Subd. 5. **FURTHER OPTION.** A volunteer firefighter, as defined in section 353.01, subdivision 36, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation

New language is indicated by underlining, deletions by ~~strikeout~~.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JAM*
RE: S.F. 235 (Betzold); H.F. 375 (Westerberg): PERA-P&F; Including Combined Blaine, Spring Lake Park, or Mounds View Civilian-Firefighter Employment Positions
DATE: April 4, 2005

Summary of S.F. 235 (Betzold); H.F. 375 (Westerberg)

S.F. 235 (Betzold); H.F. 375 (Westerberg) amends Minnesota Statutes, Section 353.64, the membership provision of the Public Employees Police and Fire Retirement Plan (PERA-P&F), by adding a subdivision that includes in PERA-P&F coverage civilian department employees of the cities of Blaine, Spring Lake Park, and Mounds View who are primarily assigned to perform firefighting, medical emergency, or hazardous material situation duties if the employee is trained as a firefighter, as a first responder, and as a hazardous materials specialist, are members of the Blaine, Spring Lake Park, and Mounds View independent non-profit firefighting corporation (BSLPMVFD), complies with BSLPMVFD rules, meets BSLPMVFD minimum training requirements, is not eligible for Social Security coverage for the municipal employment, and is certified for PERA-P&F membership by the applicable city. Any combined civilian-firefighter positions would also have a more stringent duty disability benefit qualification.

Background Information on PERA-P&F Membership

The Public Employees Police and Fire Retirement Plan (PERA-P&F) was created in 1959, replacing retirement coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) for public safety employees who were not covered by a local police or paid firefighter relief association. Initially, county sheriff personnel and small town municipal police officers were PERA-P&F members, with few firefighters. At first, PERA-P&F coverage applied to any public employee in law enforcement or fire suppression, but the membership qualifications were refined as the licensing of police officers began in the 1970s. Coverage is governed by Minnesota Statutes, Section 353.64, Subdivisions 1 and 2.

Currently, PERA-P&F membership requires that the employees meet the following requirements to qualify as a police officer:

1. Police Employment. Employment must be as a police officer by a municipal police department of a county sheriff's office.
2. Primary Law Enforcement Function. Primary employment function must be to enforce the law.
3. POST Board Licensure. Peace officer must be licensed by the Peace Officers Standards and Training Board (POST Board).
4. Property and Safety Protection. Peace officer must be engaged in the hazards of protecting the property and safety of others.
5. Arrest with a Warrant. Peace officer must be empowered to arrest with a warrant.

For firefighters, the PERA-P&F membership provision requires that, to qualify as a firefighter, municipal employees must either be a full-time firefighter or a person in charge of a designated fire company and be engaged in the hazards of firefighting. For part-time employees engaged in police work or firefighting, PERA-P&F membership is available if the employing municipality, by governing body resolution, declares the part-time employee eligible and the employee meets the statutory police officer or firefighter requirements other than full-time employment. For full-time police officers or firefighters who are periodically assigned other duties, the other duties must be in the same department and the other duties must be secondary services, with the police or firefighting services being primary.

Since 1959, all newly employed county deputy sheriffs have pension coverage by PERA-P&F and since 1980, all newly employed municipal police officers and all newly employed municipal paid firefighters have pension coverage by PERA-P&F.

As a public safety employer pension plan, PERA-P&F pays larger retirement annuities, disability benefits, and survivor benefits than a general employee retirement plan and has an earlier normal retirement age for the retirement annuity. Because of these benefit plan differences, the plan typically has a greater actuarial cost and greater member and employer contributions than a general employee retirement plan. As law enforcement officers, members of PERA-P&F are not covered by Social Security under both state and federal law for their state law enforcement employment.

The policy reason for having a more lucrative benefit program for public safety employee retirement plans is that public safety employment (police officer or firefighter service) is particularly hazardous, that it requires the maintenance of a particularly vigorous and robust workforce to meet the strenuous requirements of the employment position, and that the normally expected working career of a public safety employee will be significantly curtailed as a consequence of the hazards and strenuous requirements of that type of employment when compared to a general public employee. Public employee pension plans are intended to assist the governmental personnel system by encouraging the recruitment of qualified and motivated new employers, the retention of able and valued existing employees, and the orderly and predictable out-transitioning of employees at the expected end or normal conclusion of their working career. For public safety employees, public safety employee retirement plans provide more lucrative benefits to assist in the recruitment and retention of new and existing personnel, but most clearly emphasize the out-transitioning function.

PERA-P&F currently has 9,948 active members, 4,381 retirees, 614 disability retirements, 1,213 survivors, and 758 deferred retirees. PERA-P&F assets slightly exceed \$4.7 billion, and accrued liabilities are slightly less than \$4.4 billion, creating a 106.65 percent funding ratio. PERA-P&F has a deficiency in current contributions, when compared to the plan's total actuarial funding requirements, of 6.55 percent of payroll, a result of recent actuarial assumption changes proposed by the PERA Board of Trustees and approved by the Legislative Commission on Pensions and Retirement and of recent investment declines.

Background Information on Independent Nonprofit Firefighting Corporations and Municipal Fire Departments

Although most Minnesota fire departments are part of municipal government, several fire departments are organized as independent nonprofit firefighting corporations. A nonprofit firefighting corporation provides fire protection and fire suppression services to one or more municipalities under contract.

Independent nonprofit firefighting corporations have been formed in a variety of circumstances. Most, but not all, independent nonprofit firefighting corporations furnish fire protection to the local community in which they are situated and also serve nearby municipalities and townships that do not have their own local departments. In some cases, the independent nonprofit firefighting corporations are subsidiary to a parent municipal fire department and membership is concurrent. In some cases, it appears that independent nonprofit firefighting corporations were formed instead of municipal fire departments either at an earlier time when township tax levy limits made it difficult for some townships to build, staff, and equip a municipal fire department and before the general availability of joint powers arrangements or in order to remove the burden of administrative duties from local officials.

In becoming eligible or in retaining eligibility for the receipt of fire state aid, independent nonprofit firefighting corporations have been treated like municipal fire departments and volunteer firefighter relief associations since at least 1961. In 1961 (Laws 1961, Chapter 360), independent nonprofit firefighting corporations organized before 1961 were authorized to receive fire state aid if they have retirement plans and if they comply with all of the statutory provisions applicable to municipal fire departments and volunteer firefighter relief associations. In 1965 (Laws 1965, Chapter 671), the 1961 legislation was amended to extend the fire state aid receipt eligibility to independent nonprofit firefighting corporations organized before May 23, 1965. In 1967 (Laws 1967, Chapter 370), the fire state aid receipt eligibility of independent nonprofit firefighting corporations was extended to corporations organized before July 1, 1967. In 1969 (Laws 1969, Chapter 1001), independent nonprofit firefighting corporations were made eligible to receive fire state aid irrespective of the date on which the corporation was organized. The 1961-1967 legislation grandparented in those independent nonprofit firefighting corporations which had been previously established, but functioned as an eligibility cut-off date to discourage the establishment of new independent nonprofit firefighting corporations. In 1969, that potential discouragement of the creation of new independent nonprofit firefighting corporations was dropped. In 1979 (Laws 1979, Chapter 201), the volunteer firefighter relief association laws were recodified and volunteer firefighter relief associations subsidiary to or attached to independent nonprofit firefighting corporations were included in the same regulations as volunteer firefighter relief association related to municipal fire departments.

The number of identified independent nonprofit firefighting corporations appears to have grown over time, although there appears to be some self-reporting confusion, as follows:

1969 (18)	1982 (44)	2002 (63)
		Alaska (Beltrami Co.)
	Albertville (Wright Co.)	
	Alden (Freeborn Co.)	
Almelund (Chisago Co.)		
	Askov (Pine Co.)	
	Beaver Bay (Lake Co.)	
	Bemidji Pioneer (Beltrami Co.)	
		Boyd (Lac Qui Parle Co.)
		Brimson (St. Louis Co.)
	Browerville (Todd Co.)	
	Callaway (Becker Co.)	Canton (Fillmore Co.)
		Clinton (St. Louis Co.)
	Ceylon (Martin Co.)	
	Clearwater (Wright Co.)	
Clifton (St. Louis Co.)		
	Columbia Heights-Vol. Div. (Anoka Co.)	
		Colvin (St. Louis Co.)
		Cotton (St. Louis Co.)
		Crane Lake (St. Louis Co.)
Crookston (Polk Co.)		Crookston (Polk Co.)
	Cuyuna (Crow Wing Co.)	
		Dakota (Winona Co.)
		Dalbo (Isanti Co.)
	Darfur (Watonwan Co.)	
	Dawson (Lac Qui Parle Co.)	
East Co. Line (Ramsey Co.)		
	East Grand Forks (Polk Co.)	
		Eastern Hubbard (Hubbard Co.)
		Eitzen (Houston Co.)
		Elbow-Tulaby Lk (Becker Co.)
		Ellsburg (St. Louis Co.)
	Embarrass Region (St. Louis Co.)	
		Federal Dam (Cass Co.)
		Finland (Lake Co.)
		Fredenberg (St. Louis Co.)
		Garrison (Crow Wing Co.)
Gladstone (Ramsey Co.)		
	Gnesen (St. Louis Co.)	Gnesen (St. Louis Co.)
	Granada (Martin Co.)	
		Grand Lake Twp (St. Louis Co.)
	Granite Falls (Yellow Medicine Co.)	
		Gunflint Trail (Cook Co.)
		Hackensack (Cass Co.)
Hamel (Hennepin Co.)	Hamel (Hennepin Co.)	Hamel (Hennepin Co.)
	Hendrum (Norman Co.)	
	Hermantown (St. Louis Co.)	Hermantown (St. Louis Co.)
		Hovland (Cook Co.)
	Industrial (St. Louis Co.)	Industrial (St. Louis Co.)
	Iona (Murray Co.)	
		Jacobson (Aitkin Co.)
	Kasota (Le Sueur Co.)	
		Keewatin (Itasca Co.)
	Kensington (Douglas Co.)	
		Kinney (St. Louis Co.)
	Lake George (Hubbard Co.)	Lake George (Hubbard Co.)
Lake Johanna (Ramsey Co.)	Lake Johanna (Ramsey Co.)	Lake Johanna (Ramsey Co.)
		Lake Kabetogama (St. Louis Co.)
		Lakeland (St. Louis Co.)
Lakewood (St. Louis Co.)		Lakewood (St. Louis Co.)
		Le Center (Le Sueur Co.)
		Lewisville (Watonwan Co.)
Little Canada (Ramsey Co.)	Little Canada (Ramsey Co.)	Little Canada (Ramsey Co.)
		Littlefork (Koochiching Co.)
		London (Freeborn Co.)
	Longville (Cass Co.)	Longville (Cass Co.)
	Loretto (Hennepin Co.)	Loretto (Hennepin Co.)
		Lower St. Croix Val (Washington Co.)
		Makinen (St. Louis Co.)
		Maple Hill (Cook Co.)
	Maplewood (Ramsey Co.)	
	McDavitt (St. Louis Co.)	McDavitt (St. Louis Co.)
		Meadowlands (St. Louis Co.)
	Miltona (Douglas Co.)	
		Moose Lake (Carleton Co.)
		Nassau (Lac Qui Parle Co.)
Northdale		
		Northland (St. Louis Co.)
Odessa Farm (Big Stone Co.)		
	Ostrander (Fillmore Co.)	
Parkside (Ramsey Co.)		
		Pennock (Kandiyohi Co.)
		Pequaywan (St. Louis Co.)
	Pike-Sandy-Britt (St. Louis Co.)	Pike-Sandy-Britt (St. Louis Co.)
Pillager (Cass Co.)	Pillager (Cass Co.)	Pillager (Cass Co.)
Rural Fire Protection Assn. (Beltrami Co.)		
	Ruthon (Pipestone Co.)	

1969 (18)	1982 (44)	2002 (63)
	Sacred Heart (Renville Co.)	
	Shakopee (Scott Co.)	
		Silica (St. Louis Co.)
		Solway Twp (St. Louis Co.)
South Bend Township (Blue Earth Co.)		
Spring Lake Park (Anoka Co.)	Spring Lake Park (Anoka Co.)	Spring Lake Park (Anoka Co.)
	St. Hilaire (Pennington Co.)	
	Starbuck (Pope Co.)	
	Stephen (Marshall Co.)	
		Swanville (Morrison Co.)
Thompson Grove (Washington Co.)		
		Toivola Twp (St. Louis Co.)
		Underwood (Otter Tail Co.)
		Watson (Chippewa Co.)
		Waverly (Wright Co.)
		Wilson (Winona Co.)
Woodbury (Washington Co.)		
	Wood Lake (Yellow Medicine Co.)	

Background Information on the Minnesota Fire Service Certification Board and Firefighter I Certification

The Minnesota Fire Service Certification Board was established in 1987 to meet the needs of Minnesota's fire service to recognize various levels of training competencies and proficiencies of the state's firefighting community. The organization offers certification on a voluntary basis to individuals that work or live in Minnesota and engage in the occupation of firefighting.

These certification levels are available to members of career and volunteer fire departments, as well as others working in the field. Levels of certification are:

- Firefighter I
- Firefighter II
- Fire Instructor I
- Fire Instructor II
- Fire Inspector I
- Fire Inspector II
- Fire Officer I
- Fire Officer II
- Airport Fire Fighter
- Fire Apparatus Operator
- NFPA 472 – HazMat Awareness
- NFPA 472 – HazMat Operations
- MFPA 472 – HazMat Technician
- Public Fire and Life Safety Educator I
- Public Fire and Life Safety Educator II

The members of the Minnesota Fire Service Certification Board are:

Name	Title/Region/Org.	Name	Title/Region/Org.
Daniel Brumm	Chairman, Region I	Pat Sheehan	Office of the State Fire Marshal
Greg Hayes	Vice Chairman	Dave Schliek	Region 5
James K. Heim	Secretary	Jay Bohan	Region 6
Dale Mashuga	Test Coordinator	Bernie Vrona	Region 8
Patrick Doheny	IAAI	Daniel Klein	Region 11
Jeff Schadegg	IAAI Alternate	Daryl Bartholomaus	Region 14
Woody Walters	MSFDA & FIRE/EMS Safety Center	Brian Staska	Region 15
Tom Pressler	MSFDA Alternate	Lee Cooper	At Large
Phillip Owens	FMAM	James Hansen	At Large
Jon Nisja	FMAM Alternate	Robert Leger	At Large
Doug Thies	FIAM	Paul Seleski	At Large

The Firefighter I certification is based on the National Fire Protection Association (NFPA) 1001 standard. The skill areas tested are Fire Hose, Appliances, and Fire Streams, Ladders, Carriers, Raises, Self Contained Breathing Apparatus, Search and Rescue, Forcible Entry, Ventilation, and Safety, Emergency Medical Care, Fire Prevention and Public Fire Education, Fire Control, Salvage and Overhaul, Fire Extinguishers, Ropes and Knots, Ladder and Hose Maintenance, and Fire Department Communications. The test has two parts, a 150 question multiple-choice written test and a practical exam to demonstrate proficiency in between four and six skills categories.

The National Fire Protection Association is a non-governmental fire and electrical standards setting entity that was organized by insurance and insurance underwriter concerns.

Discussion and Analysis

S.F. 235 (Betzold); H.F. 375 (Westerberg) would include in retirement coverage by the Public Employees Police and Fire Retirement Plan (PERA-P&F) employees of the city of Blaine, the city of Spring Lake Park, or the city of Mounds View who are employed outside of the police or fire departments of the city

but are combination position employees with the primary assignment of engaging in emergency response activities of firefighting, medical emergency, and hazardous materials situations if the employee meets various specific fire department-related occupational qualifications.

S.F. 235 (Betzold); H.F. 375 (Westerberg) raises several pension and related public policy issues for Commission consideration and discussion, as follows:

1. Appropriateness of Including Combination Firefighter-Civilian Employees in Public Safety Employee Pension Coverage. The policy issue is the appropriateness of including employees of civilian departments of a city who also are required to perform on-call firefighter duties in public safety employee retirement plan coverage. Currently, to be included in coverage by the Public Employees Police and Fire Retirement Plan (PERA-P&F), local government employees must be employees of either a police department or of a fire department. Although the individuals proposed for PERA-P&F coverage would be employees of a civilian or non-public safety department, the employees are required to be primarily assigned to engage in emergency response activities, meet the hiring and employment requirements of the Blaine-Spring Lake Park-Mounds View Fire Department, and meet minimum training requirements as a firefighter, a first responder, and a hazardous materials specialist. The legislation is being sought by the Blaine-Spring Lake Park-Mounds View Fire Department in an attempt to meet part of its recruitment needs. It is unclear whether or not this combination civilian-firefighter position will improve the provision of firefighting services in southern Anoka County. The inclusion of positions that are not dedicated public safety positions for persons employed in a public safety department in public safety pension coverage does represent something of a “watering-down” of eligibility for that special coverage. Public safety pension coverage functions like any pension coverage to recruit qualified new employees, to retain productive existing employees, and to produce a predictable and systematic out-transitioning of employees reaching the conclusion of their normal working lifetime and is adapted for the special hazards and physical demands of public safety employment. The proponents of the proposed legislation are likely to argue that recruitment needs are the primary rationale for the bill. If the affected employees are not regularly subjected to the physical hazards and demands that characterize public safety employment, the proposed inclusion of these combination civilian-firefighter positions in PERA-P&F coverage represents the provision of excessive benefit coverage than may be appropriate and the imposition of a higher cost to taxpayers than is necessary.
2. Appropriateness In Light of the Availability of Volunteer Firefighter Relief Association Coverage. The policy issue is the appropriateness of including Blaine, Spring Lake Park, or Mounds View combination civilian-firefighter employees in retirement coverage by the Public Employees Police and Fire Retirement Plan (PERA-P&F) when the option of volunteer firefighters with the Spring Lake Park Volunteer Firefighter Relief Association retirement coverage is available. The recruiting problem of the Blaine-Spring Lake Park-Mounds View Fire Department appears to be in gaining a sufficient number of daytime firefighters for the suburban communities the department services. Although the Blaine, Spring Lake Park, or Mounds View resident pool of potential volunteer firefighters during the daytime hours is reduced by those persons who commute and work outside of the three localities, the creation of a day shift for Blaine-Spring Lake Park-Mounds View Fire Department volunteer firefighters drawn from workers in the area who work a day shift and the provision of those volunteer firefighters with Spring Lake Park Volunteer Firefighter Relief Association retirement coverage could produce the necessary recruits.
3. Appropriateness of the Minimum Requirements for Combination Civilian-Firefighter Employment. The policy issue is the appropriateness of the ten specific requirements that a person needs to meet in order to gain the proposed special retirement coverage. The requirements are:
 - (1) Blaine, Spring Lake Park, or Mounds View City Employment – be an employee of the city of Blaine, or the city of Spring Lake Park, or the city of Mounds View;
 - (2) Primary Firefighter Assignment – have the primary employment assignment of engaging in emergency response activities for firefighting, medical emergencies, or hazardous materials situations;
 - (3) Blaine-Spring Lake Park-Mounds View Fire Department Membership – be retained by the Blaine-Spring Lake Park-Mounds View independent nonprofit firefighting corporation;
 - (4) Blaine-Spring Lake Park-Mounds View Fire Department Rules Compliance – comply with all rules, regulations and requirements of the Blaine-Spring Lake Park-Mounds View independent nonprofit firefighting corporation;

- (5) 60 Hours Annual Ongoing Continuing Firefighting Education – maintains a minimum of 60 hours of ongoing continuing firefighting education annually;
- (6) Firefighter I Minimum Certification – have the certification of Firefighter I or higher by the Minnesota Fire Certification Board;
- (7) Hazardous Materials Specialist Certification – have the certification as a hazardous materials specialist from an accredited institution;
- (8) First Responder Certification – have the certification as a first responder by the National Registration Board;
- (9) Firefighter or Emergency Responder Primary Employment Assignment – be employed primarily by the employing city as a firefighter or emergency responder; and
- (10) No Future Social Security Coverage – be determined to be ineligible for future Social Security coverage because of firefighter employment.

Because of the number of requirements and because of the specificity of the requirements, there may be difficulties in actually gaining a sufficient number of potential recruits of the Blaine-Spring Lake Park-Mounds View Fire Department. Since the fire department covers three municipalities and fire department calls can occur anywhere in the service area, if most of the employee's fire department duties and activities take the person outside of the employing municipality, that municipality may not be willing to continue the experiment in the future. The requirements effectively require double employment, since the person must meet any municipal employment requirements as well as Blaine-Spring Lake Park-Mounds View Fire Department standards, and any inappropriate discretion allowed in the hiring procedures of either could subject both "employers" to subsequent litigation. Requiring certification in three specialties (firefighter, first responder, and hazardous materials specialist), each requiring a significant and somewhat costly training regimen, may dissuade individuals, especially if these actually are preconditions to the employment rather than actually being continuing or ultimate conditions. The specification of the Minnesota Fire Certification Board certification only, and not allowing a comparable firefighter certification, also may be problematic. Amendment LCPR05-105 would broaden this certification requirement to include comparable entities providing the same certification. The first responder National Registration Board certification lacks clarity, since a web search by the Commission staff produced no links to an organization with that certification, and the requirement also may be too specific and too limited. Amendment LCPR05-106 would replace the specific certification organization with a broader reference simply to an accredited institution. The second requirement, the primary firefighter assignment requirement, and the ninth requirement, the firefighter or emergency responder primary employment assignment requirement, appear to be either duplicative and unnecessary or potentially inconsistent. Amendment LCPR05-107 eliminates the potential duplicative or contradictory seventh requirement.

4. No Clear Disallowance of Spring Lake Park Volunteer Firefighter Relief Association Coverage. The policy issue is the appropriateness of potentially allowing a combined civilian position-firefighter employee of Blaine, Spring Lake Park, or Mounds View who renders essentially volunteer service with the Blaine-Spring Lake Park-Mounds View Fire Department with retirement coverage by the Public Employees Police and Fire Retirement Plan (PERA-P&F) to also have retirement coverage by the Spring Lake Park Volunteer Firefighter Relief Association. Because the combination employee is not technically an employee of the Blaine-Spring Lake Park-Mounds View Fire Department, the combination could "volunteer" firefighting services for purposes of coverage by the Spring Lake Park Volunteer Firefighter Relief Association under the federal Fair Labor Standards Act, resulting in a pension coverage situation akin to the arrangements by Edina firefighters and Coon Rapids firefighters. This double coverage for the same employment or for essentially the same employment is generally considered a retirement abuse. Amendment LCPR05-108 would prohibit the combination employee from concurrent retirement coverage by the Spring Lake Park Volunteer Firefighter Relief Association.
5. Appropriateness of New Restrictions on Duty Disability Coverage for Combination Employees. The policy issue is the appropriateness of the restrictions on duty disability coverage under the Public Employees Police and Fire Retirement Plan (PERA-P&F) proposed for these Blaine, Spring Lake Park, or Mounds View combination civilian-firefighter employees. A duty disability benefit for a combination civilian-firefighter employee of Blaine, Spring Lake Park, or Mounds View would be payable only if the person becomes unable to perform firefighter duties from an injury, illness or other disability while engaged in an emergency call for assistance response, or engaged in firefighting training, or while engaged in fire suppression or rescue activities at the scene of a fire or a rescue.

Although the proposed restrictions are intended to narrow the eligibility for a PERA-P&F duty disability benefit, the proposed provisions are not unambiguous. For instance, if the combination civilian position-firefighter employee is startled by a fire call pager while working at a city computer station or while investigating a municipal water or sewer line, then falls, and suffers a permanent loss of motion in a leg or arm joint, a question arises whether or not that injury occur while responding to an emergency call for assistance.

6. Current Lack of a Clear Definition of a Firefighter for PERA-P&F Coverage. The policy issue incidental to the proposed legislation is the lack of a clear operational definition of a firefighter currently in Minnesota Statutes, Section 353.64 comparable to the definition of a police officer. Minnesota Statutes, Section 353.64, Subdivision 1, Clause (2), does not require that a potential PERA-P&F member as a firefighter be certified or licensed in that position, be assigned to a municipal fire department or independent nonprofit firefighting corporation, or be required to have as a primary job assignment in fire suppression, emergency medical response, or hazardous materials response. Because PERA-P&F was primarily engaged in providing pension coverage to police officers and was historically very limited in its application to full-time firefighters, the requirements for PERA-P&F coverage for firefighters is vague, poorly developed, and has potential problems. Amendment LCPR05-109 suggests language to bolster the current PERA-P&F firefighter definition.
7. Need for Stricter PERA-P&F Duty and Non-Duty Disability Benefit Eligibility Requirements. The policy issue, related to the subject matter of the proposed legislation, is the need for additional revisions in the eligibility requirements for PERA-P&F duty and non-duty disability benefit coverage. In February 2004, PERA and news articles in the Minneapolis Star Tribune and the St. Paul Pioneer Press indicated that numerous Minnesota police officers and firefighters were using a loophole in state law to receive lucrative disability benefits, sometimes two years after the injury occurred and while engaging in subsequent public employment. The February 2004 concerns were only partially addressed in H.F. xxx; S.F. 1616 (Betzold), which was folded into the 2004 Omnibus Retirement Bill, which made the following changes in PERA-P&F disability procedures:
 - a. Requiring evidence that the applicant is unable to perform duties of the position held at the time of the disability if the application is filed within two years of the onset of the disabling injury or illness;
 - b. Requiring evidence that the applicant is unable to perform duties assigned within 90 days of the application date if the application is filed more than two years after of the onset of the disabling injury or illness;
 - c. Requiring first reports of injury in all duty-related applications;
 - d. Requiring in all cases that the employer must provide evidence that the applicant is unable to perform applicable duties;
 - e. Voiding the disability application if termination from service does not occur within 45 days after approval of a disability application;
 - f. Clarifying that individuals may simultaneously apply for disability and retirement benefits, although both may not be received at the same time; and
 - g. Permitting repayment of refunds no later than six months after the effective date of the disability benefit.

In testimony in 2004, PERA indicated that it had worked on the issue with interested parties and would continue to discuss additional disability benefit revisions and reforms with its constituency, but no additional revisions or reforms have been forthcoming in 2005. To potentially resolve some of the identified problems with the PERA-P&F disability benefit program, Amendment LCPR05-110 makes the following potential changes as a contribution to Commission consideration of potential PERA-P&F disability reforms based on the February 2004 identification of PERA-P&F disability program problems:

- i. Creates Hazardous Duty Disability Benefit. The current duty disability benefit is transformed into a hazardous duty disability benefit, without any minimum vesting requirement and with a minimum benefit amount (Sections 1, 4, and 6).
- ii. Creates Non-Hazardous Duty Disability Benefit. A non-hazardous duty disability benefit is created, without any minimum vesting requirement, but with a smaller minimum benefit amount than the duty disability benefit (Sections 2 and 8).

- iii. Requires Disability Determination Based on Person's Actual Police or Fire Duties. The determination of a hazardous duty disability, a non-hazardous duty disability, or a non-duty disability must be based on the actual duties of the person's police officer or firefighter position, so a detective's disability will be potentially based on different position requirements than a beat patrol officer (Sections 1, 2, and 3).
- iv. Reemployed Disabilitant Earnings Limitation Clarified. An earnings limitation on reemployed disabilitants is clarified to apply to any public sector, nonprofit sector, or private sector employment (Section 9).
- v. Termination on Account of Disability Required for Disability Benefit Receipt. As a condition to the receipt of a disability benefit, an application is required to have terminated active public safety employment on account of the disability (Section 10).
- vi. No Post-Termination Disability Benefit Application. No application for a PERA-P&F disability benefit may be filed after the person terminates active employment (Section 12).
- vii. No Post-Disability Refund Repayment. No refund repayment is permitted from a PERA-P&F disability benefit applicant after the date of the disability (Section 12).

Technical Amendment

Amendment LCPR05-104 clarifies the language of the proposed legislation without intentionally altering its substance and repositions the proposed disability eligibility restrictions in the PERA-P&F disability benefit section rather than in the membership section as proposed.

TwinCities.com

Posted on Sun, Feb. 22, 2004

MINNESOTA: Disability payouts rise for police, firefighters

BY ROBERT INGRASSIA
Pioneer Press

A growing number of cops and firefighters in St. Paul and throughout Minnesota are using loosely written laws to gain lucrative disability benefits, straining a taxpayer-supported pension fund and threatening local government budgets across the state.

Although some of the benefits are flowing to firefighters and officers who suffered severe injuries on the job, state and local officials point to a host of questionable cases in recent years that they say highlight the need for reform:

- Officers and firefighters in St. Paul and elsewhere who were injured playing racquetball, softball or other sports qualified for on-the-job disability benefits by contending that the activities were part of job-related fitness training.
- A St. Paul officer who injured herself lifting weights was found fit enough to continue working her desk job, but won disability benefits after a doctor stated she would be unable to chase a suspect if the need arose.
- Two St. Paul firefighter trainees received benefits for injuries they claimed they suffered during training. They are receiving 60 percent of their salary for the rest of their lives and subsidized health insurance until age 65.

St. Paul Mayor Randy Kelly sponsored one of the benefit laws in 1997 while he was a state senator. His top aide, Deputy Mayor Dennis Flaherty, championed Kelly's bill while serving as director of a statewide police group.

Now, as St. Paul and other cities are facing rising costs because of a spike in disability claims, Kelly and Flaherty are backing an effort to tighten the police and fire disability programs.

"The original intent was and still is to assist families when a loved one is killed or disabled with a career-ending injury in the line of duty," said Flaherty, former executive director of the Minnesota Peace and Police Officers Association. "We don't want to attack the benefit. We want to attack the abuse of it."

Representatives of police officers and firefighters said they agree with the need for changes. But they said officials in St. Paul and other cities are partly to blame for the rising number of disability pensions and insurance benefit claims.

Commanders and administrators sometimes pushed troublesome or aging workers into the disability programs, said Dick Leitner, president of the St. Paul Firefighters Local 21. He said St. Paul officials didn't begin raising concerns about the programs until the state slashed reimbursement payments to the city.

"The city knew they had a problem for years," Leitner said. "But it wasn't considered abuse until it went unfunded."

St. Paul police officers and firefighters are garnering a disproportionate share of the benefits.

They obtained a quarter of a state pension fund's disability payments in 2002 — while making up 10 percent of the fund's membership. Of the 149 retirees currently receiving the insurance benefit statewide, a third are from St. Paul.

Pension officials and labor representatives were at a loss to explain the spike in St. Paul, other than to suggest that the city's officers and firefighters were simply more aware of the benefits than their peers across the state.

Under state law, public safety officers qualify for higher retirement pay and heavily subsidized health insurance if they can show that an injury suffered on the job prevents them from performing the most demanding of police or fire jobs.

Two programs are at issue. One is a disability retirement benefit paid out by the pension fund. The other is a health insurance program administered by the state. They are related because applicants who qualify for the disability pension are in most cases automatically granted the insurance aid.

The increasing number of disability applications is straining the Police and Fire Fund, a statewide pension fund that covers nearly 10,000 police officers, firefighters and sheriff's deputies. The fund is one of several public pensions managed by the Public Employees Retirement Association of Minnesota.

The pension fund's managers say the higher expenses could force them to ask the state to approve higher contributions from cops and firefighters and from the cities and counties that employ them.

The fund's financial health is in jeopardy. Just a few years ago, the pension was considered "overfunded," meaning it had plenty of assets and income to pay its current and future retirees.

But because investment returns have slumped in recent years and disability payments have increased, the fund's expenses have begun outpacing income.

"The fund is stressed," said Mary Most Vanek, the public pension association's executive director. "We're going to have to increase contributions, I'd expect within the next year, to get the fund back on track and meet our future obligations."

Increasing contributions is controversial on two fronts. Cities and counties would have to pay more for each public safety worker they employ. Plus, cops and firefighters would see more money disappear from each paycheck.

Lucrative pensions strain fire, police fund

Mark Brunswick and Tony Kennedy

Star Tribune

Published 02/22/2004

Hundreds of Minnesota police officers and firefighters have used a loophole in state law to win lucrative disability pensions meant for those who get shot, fall through burning roofs or otherwise suffer career-ending injuries protecting the public.

Many had held down jobs in police and fire departments for years following their injuries, but were allowed to elect early retirement, sometimes going on to work similar jobs in the private sector, and still collect disability payments.

Officers and firefighters have cited everything from weak knees to bad backs to racquetball injuries in order to gain lifetime pensions and other costly benefits.

The trend is dramatically depleting a state pension fund and threatening to cost taxpayers millions.

Those collecting disability payments include a St. Paul City Council member, two fire department trainees who flunked out of the firefighters' academy, a state senator and his wife, and a former firefighter whose disability did not prevent his becoming a finalist to play the robust "Brawny Man" for a popular brand of paper towels.

Recently, a St. Paul officer under a felony indictment in connection with stolen property was awarded a disability pension he could collect even in prison.

St. Paul, by far, leads the way on expensive "in-the-line-of-duty" medical retirements. At least 54 St. Paul police and fire workers - some in high-ranking posts in their departments - have won lifetime disability pensions the past four years that come complete with free survivor benefits and subsidized health insurance until age 65.

The Public Employees Retirement Association (PERA), St. Paul city officials and the League of Minnesota Cities say that the pension rolls are becoming overburdened by police and firefighters exploiting a generous and flawed new retirement option created by the Legislature in 1997.

The way the law is written, PERA says, the new breed of applicants needs only a doctor to say they have a job-related malady that prevents them from doing 100 percent of a front-line job as a baton-swinging street officer or ladder-climbing firefighter.

As a result, the rush of applicants for the new, top-of-the-line retirement benefits has commonly included desk bound police and fire administrators with chronic ailments who might have otherwise waited for normal retirement at age 55. It also includes applicants with injuries suffered from such activities as working out at the gym, under the justification that part of the duty of police officers and firefighters is to stay fit.

"I believe the intent of the law is being violated, terribly," said Ron Guilfoile, director of St. Paul's risk management office.

Jeffrey Kane, 33, joined the St. Paul Police Department in 1999. He was indicted late last year on federal charges that he transported and concealed a stolen Bobcat loader. He has pleaded not guilty.

But when Kane left the police force on Feb. 9, it wasn't because federal prosecutors were trying to put him behind bars. Instead, Kane left with an in-the-line-of-duty disability pension that promises to pay him at least 60 percent of his officer's salary and city-subsidized health care until he is 65. Police Department spokesman Paul Schnell wouldn't comment on the case, but he said the disability pension was related to injuries that Kane suffered several years ago in a squad car accident. Neither Kane nor his lawyer could be reached for comment.

Schnell said Kane returned to work after his crash in a lighter-duty role as a graffiti investigator. After his indictment, Kane was assigned to the police impound lot pending an internal investigation.

A PERA spokeswoman said approving Kane's disability pension was an open-and-shut case. Even if Kane spends time in a federal prison camp, his monthly pension checks will keep coming, she said.

Statewide, the numbers of disability claims have skyrocketed in a few years under the new law. In 1998, the first full year of availability for the enhanced, duty-related pensions, PERA's police and fire plan paid out \$5.9 million to 314 disability benefit recipients. In the fiscal year ending June 30, 2003, it paid out more than four times as much to 614 recipients.

Officials have no clear explanation for why St. Paul has experienced a spike of more than 50 in-the-line-of-duty disability retirements in police and fire ranks since the law changed. In the same time period, only a handful of Minneapolis police and firefighters have taken the so-called "medical outs." Some believe word of the new disability provisions has spread unusually widely among St. Paul officers. Others contend an aging workforce nearing retirement age finds the benefits especially attractive.

St. Paul Mayor Randy Kelly and his deputy mayor, Dennis Flaherty, spearheaded the 1998 law change when Kelly was a state senator and Flaherty was chief lobbyist for the statewide police federation.

As the two men now question what went wrong, PERA is contemplating an across-the-board hike in the cash contributions from covered cities and individuals that fund pensions. In St. Paul, for instance, the city's cost to support police and fire pensions could jump 35 percent, from about \$6 million a year to \$8.1 million, Guilfoile said. Meanwhile, the duty-related medical retirements also have increased the city's annual health insurance obligations.

Mary Vanek, executive director of PERA, the agency that grants pensions from the \$4.7 billion Police and Fire Pension Fund, said the high number of St. Paul cases is "unbelievable" compared to other municipalities.

Retired St. Paul police officer Thomas Collins, once the department's designated security guard and driver for former Mayor Norm Coleman, now works under contract for the U.S. Marshals Service as a guard at the federal courthouse in St. Paul. Collins took a duty-related disability pension at age 46 and looked for a second job "because it wasn't a fat enough pension to sit home and do nothin'."

Collins, who receives a monthly disability payment of \$3,851, readily admits that he could have looked for a desk job in the police department following his mayoral assignment, but instead he exercised his legal rights to a duty-related disability because he had physical restrictions from a back injury suffered in a June 1995 road accident in the mayor's Crown Victoria.

Collins said he had a "very tenuous relationship" with Police Chief Bill Finney and didn't want to risk getting an undesirable new assignment. If it hadn't been for the availability of a duty-related medical pension that would also pay a portion of his health insurance, Collins said, he would have had to continue working in the department.

"I was 46 years old," Collins said. "I wouldn't have been able to leave otherwise."

System's generosity

No one has come forward with an example that breaks the law, but other cases further illustrate the system's generosity.

- Former St. Paul firefighter Doug Friberg was approved for a duty-related medical pension in May 2002 and left the department with a \$39,000-a-year pension and subsidized health care benefits. He resurfaced later that year as a contest finalist in a national promotion for "rugged, tough, dependable and strong" Brawny paper towels. In vouching for him as a worthy candidate to be Georgia-Pacific's new "Brawny Man," Friberg's neighbors in Oakdale raved about his volunteering to shovel their snow.

The 46-year-old Friberg, a former football nose guard for the University of Minnesota, said his involvement in the Brawny "publicity stunt" was all about physical appearance, not physical ability. He said he injured his back in 1993, lifting a stretcher in a narrow stairway. Because the injury was never properly treated, he said, it lingered until he could no longer perform all the duties of a firefighter and medic. The snow-shoveling testimonials were from days long ago when he was healthy, said Friberg, who said he now works in a job that doesn't require heavy lifting.

- Although neither Julie Tossey nor Kathleen O'Connor worked a single day in a St. Paul fire station, both have been collecting in-the-line-of-duty disability pensions since 2001. Their attorneys, Dan Boivin and Sandra Kensey, said the pensions are for injuries that Tossey and O'Connor suffered during six weeks of recruit training in the city's firefighter academy. The two were notified midway through the academy that they were unqualified, but they were technically employed as firefighters during the training period.

Boivin and Kensey said PERA contested Tossey's case, in which she reinjured her back during a firefighter training exercise. The original injury was from an off-the-job horseback-riding accident, but Tossey had recovered enough to pass the physical exam to qualify as a firefighter recruit, the lawyers said.

After Tossey prevailed, the lawyers said, PERA didn't contest O'Connor's claim that she suffered mental anguish and depression as a result of emotional abuse at the academy. According to state pension records, Tossey receives a monthly pension of \$2,738, while O'Connor receives \$1,626. Tossey and O'Connor are still pursuing a lawsuit against St. Paul for age and sex discrimination, claiming the training academy was rigged against them.

- State Sen. Mike McGinn and his wife, Lisa, were both with the St. Paul Police Department until they retired under disabilities. Together, they receive \$135,000 a year in disability checks.

Besides the disability payments and his Senate salary, Mike McGinn, who had a heart attack in 1991 and retired in 2000 with a nonduty related disability, also works part time as a law enforcement consultant. McGinn said the stresses are more manageable in his political career than they were in police work.

"In politics, there are winners and losers, but no one is losing their life," he said.

Lisa McGinn retired last year at 50 with an in-the-line-of-duty disability from injuries she received in several auto accidents. She has not found full-time employment. She said the injuries from the duty-related car crashes resulted in chronic pain that limited her ability to do police work. As a watch commander in her final year on the force, she said she was unable to qualify at the firing range because the recoil from a shotgun might injure her neck.

"There's no place I would rather be than still be working at the St. Paul Police Department," she said.

Trend spreads

While the trend started in St. Paul, it is spreading throughout the state.

"Others have figured it out. The word is out," PERA's Vanek said. "You can't ignore the actuaries. Contributions to the fund need to be increased or benefits decreased."

The potential for an increase in contributions to the pension fund has caught the eye of current police and fire members, whose own individual contributions to the retirement plan could go up \$250 to \$400 a year or more to make up for the reimbursements to the disabled retirees.

Bill Gillespie, executive director of the Minnesota Police and Peace Officers Association, said many of those filing for in-the-line-of-duty disabilities are using injuries that are not the kind for which the new benefit was intended. Active members, he says, are registering complaints.

"Their objection is primarily one of a sense of justice, what's right and fair," he said.

PERA officials say they are hamstrung by the law and they are pushing a bill at the Legislature that would restrict the availability of duty-related medical pensions. Other benefit plans for non-police and fire personnel often require a "total and permanent" disability that means the inability to perform any gainful activity for the same level of benefits.

Former St. Paul police commander Debbie Montgomery was elected to the St. Paul City Council last fall. She retired from the police department in 2003 with a \$63,000 a year in-the-line-of-duty medical pension that the city contested. According to state workers' compensation records, Montgomery's doctor said she developed injuries to both of her knees from years of getting in and out of squad cars, kneeling at the firing range and falling down on her kneecaps while a street officer.

Montgomery's injuries didn't prevent her from working her administrative job as a commander, but she said she deserved an in-the-line-of-duty disability pension because she could no longer do everything a uniformed officer might be called upon to do.

"Your job title says that you have to be able to perform all the duties of a police officer," she said. "It doesn't say 'commander.' It says 'police officer.'"

As long as they do not go back to working as licensed police officers or firefighters, those with in-the-line-of-duty disabilities are free to find other work, even in security-related fields.

Former St. Paul police officer David Mars is co-owner of Twin City Lawmen, Inc., an Oakdale private security firm. His back was injured in a squad car accident in the

late 1970s, he said. He missed months of work, but returned as a patrolman in the rough Frogtown area for many years, even though he was still troubled by a degenerating disc problem.

Mars said he was "fed up with the administration" of the police force at age 50 and also worried more about his back. But instead of taking normal early retirement, he received a richer, duty-related medical retirement that pays him a higher monthly pension and a subsidy on his health insurance.

"I'd be stupid if I didn't take it," said Mars, who adds that his role at Twin City Lawmen is primarily administrative.

Change in state law

Mayor Kelly and Deputy Mayor Flaherty pushed hard for the change in state law that opened up the flood of disability claims. They said at the time and continue to maintain that the intent of the legislation was to protect officers and firefighters facing increasing dangers.

Initially, the state was to reimburse cities for the additional costs, but those funds have been severely restricted under budget cuts.

Flaherty said it was never his intention for the new benefit to be used in this way. He testified before a House committee in 1997: "I don't want you to think that we're talking about a large number of people. Fortunately, it's a very finite group."

Others remember Flaherty's role differently. Dave Johnson was a state senator at the time of the law change. He is now the attorney for the union that represents St. Paul firefighters.

Johnson said that Flaherty could have acted in 1997 to narrow the availability of the new benefit he was proposing as a police lobbyist by using a "hot pursuit" standard instead of the broader "in the line of duty" language.

There is plenty of blame to go around. The police association's Gillespie and other police groups blame PERA for failing to enforce the law. So does St. Paul's Flaherty. PERA points to the courts, which have upheld the broad interpretation of the law.

PERA has no investigators in the field to determine if someone claiming a disability is still unable to work. It relies instead on reports sent in by the claimants themselves. Now it wants greater accountability from those making claims.

The Minnesota Department of Health has a retired doctor working a few days a week with part-time help to review disability claims. Of the 368 disability determinations the Department of Health has conducted with benefit effective dates after 1999, it has denied only one application.

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1 M moves to amend S.F. No. 235; H.F. No.
2 372, as follows:

3 Page 1, line 12, delete "An" and insert "A qualified" and
4 after "of" insert "the city of" and before "Spring" insert "the
5 city of" and after "or" insert "the city of"

6 Page 1, line 13, after "View" insert "is a member of the
7 public employees police and fire retirement plan governed by
8 sections 353.63 to 353.68, subject to the limitations set forth
9 in section 353.656, subdivision 1, paragraph (b).

10 (b) A qualified employee is a person"

11 Page 1, line 14, after "assigned" insert "by the applicable
12 city"

13 Page 1, line 16, after "situations" insert "within the
14 service area of the Blaine, Spring Lake Park and Mounds View
15 independent nonprofit firefighting corporation"

16 Page 1, line 17, delete "or" and insert "and"

17 Page 1, line 19, after "all" insert "applicable published"

18 Page 1, line 20, delete "or" and insert "and"

19 Page 1, line 21, after "independent" insert "nonprofit" and
20 delete "a" and insert "an annual"

21 Page 1, line 22, delete "per year"

22 Page 1, lines 23 and 25, after "as" insert "meeting the
23 requirements of"

24 Page 2, line 4, after the first "or" insert "as an"

25 Page 2, line 6, after "(8)" insert "determined by the
26 federal secretary of labor as being"

27 Page 2, line 11, before "position" insert "employment" and
28 after "excluded" insert "as that of a firefighter"

29 Page 2, line 13, delete the underscored semicolon and
30 insert an underscored period

31 Page 2, delete line 14

32 Page 2, line 15, delete "sections 353.63 to 353.68." and
33 insert "(c)" and delete "and" and insert "or"

34 Page 2, line 16, after "View" insert ", whichever applies,"
35 and after "shall" insert ": (1)"

36 Page 2, line 18, delete "shall" and insert "; (2)"

1 Page 2, line 19, delete "shall" and insert "; (3)"

2 Page 2, line 21, delete "shall" and insert "; and (4)"

3 Page 2, line 22, after "trustees" insert "of the Public
4 Employees Retirement Association" and after "specifying" insert "
5 that the city employment" and delete "to" and insert "are" and
6 delete "be"

7 Page 2, line 25 delete "(b) An" and insert:

8 "Sec. 2. Minnesota Statutes 2004, section 353.656,
9 subdivision 1, is amended to read:

10 Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF
11 BENEFITS.] (a) A member of the police and fire plan who becomes
12 disabled and physically unfit to perform duties as a police
13 officer, firefighter, or paramedic as defined under section
14 353.64, subdivision 10, as a direct result of an injury,
15 sickness, or other disability incurred in or arising out of any
16 act of duty, which has or is expected to render the member
17 physically or mentally unable to perform the duties as a police
18 officer, firefighter, or paramedic as defined under section
19 353.64, subdivision 10, for a period of at least one year, shall
20 receive disability benefits during the period of such
21 disability. The benefits must be in an amount equal to 60
22 percent of the "average salary" as defined in section 353.651,
23 subdivision 2, plus an additional percent specified in section
24 356.315, subdivision 6, of that average salary for each year of
25 service in excess of 20 years. If the disability under this
26 subdivision occurs before the member has at least five years of
27 allowable service credit in the police and fire plan, the
28 disability benefit must be computed on the "average salary" from
29 which deductions were made for contribution to the police and
30 fire fund.

31 (b) A qualified" and delete "paragraph (a)" and insert
32 "section 353.64, subdivision 12, paragraph (b),"

33 Page 2, line 27, after "for" insert "a duty"

34 Page 2, line 28, delete "benefits" and insert "benefit" and
35 delete "fund" and insert "retirement plan"

36 Page 2, line 29, before "section" insert "this" and delete "

1 353.656, subdivision 1" and delete "member" and insert "person"

2 Page 2, line 30, after "perform" insert "future" and after "
3 duties" insert "for the Blaine, Spring Lake Park and Mounds View
4 independent nonprofit firefighting corporation"

5 Page 2, line 31, delete "an" and insert "a medically
6 determinable"

7 Page 2, line 34, after "assistance" insert "from the
8 Blaine, Spring Lake Park and Mounds View independent nonprofit
9 firefighting corporation"

10 Page 2, line 35, after "training" insert "provided by or
11 authorized by the Blaine, Spring Lake Park and Mounds View
12 independent nonprofit firefighting corporation"

13 Page 3, line 1, after "rescue" insert "involving the
14 Blaine, Spring Lake Park and Mounds View independent nonprofit
15 firefighting corporation"

16 Page 3, line 2, delete "An" and insert "A qualified"

17 Page 3, line 3, after "but" insert "who" and after "is"
18 insert "only"

19 Page 3, line 4, after "for" insert "a" and delete "benefits"
20 and insert "benefit"

21 Page 3, delete lines 5 and 6 and insert:

22 "Sec. 3. [EFFECTIVE DATE; LOCAL APPROVAL.]

23 Section 1 is effective on the day after which the last of
24 the governing bodies of the city of Blaine, the city of Spring
25 Lake Park, and the city of Mounds View and that city's chief
26 clerical officer timely complete their compliance with Minnesota
27 Statutes, section 345.021, subdivisions 2 and 3."

28 Amend the title as follows:

29 Page 1, line 2, after "retirement;" insert "public
30 employees police and fire retirement plan;"

31 Page 1, line 3, delete "and" and insert "or"

32 Page 1, line 4, after "the" delete the balance of the line
33 and insert "retirement plan"

34 Page 1, line 5, delete "police and fire fund"

35 Page 1, line 6, delete "section" and insert "sections" and
36 after "subdivision" insert "; and 353.656, subdivision 1"

1 M moves to amend S.F. No. 235; H.F. No.
2 372, as follows:

3 Page 1, line 23, after "Board" insert "or a comparable
4 certification organization recognized by the International Fire
5 Service Accreditation Congress"

6 Page 1, line 24, after "firefighter I" insert "under
7 National Fire Protection Association standard 1001"

1 M moves to amend S.F. No. 235; H.F. No.

2 372, as follows:

3 Page 1, delete lines 25 and 26 and insert "(5) certified as

4 a first responder by an accredited institution;"

- 1 M moves to amend S.F. No. 235; H.F. No.
- 2 372, as follows:
- 3 Page 2, line 3, after "(7)" delete the balance of the line
- 4 Page 2, delete line 4
- 5 Page 2, line 5, delete "the effective date of this act;"
- 6 Page 2, line 6, delete "(8)"

1 M moves to amend S.F. No. 235; H.F. No.
2 372, as follows:

3 Page 3, after line 6, insert:

4 "Sec. 2. [PROHIBITION ON CERTAIN VOLUNTEER FIREFIGHTER
5 RELIEF ASSOCIATION CONCURRENT COVERAGE.]

6 A qualified employee defined in Minnesota Statutes, section
7 353.64, subdivision 12, is not eligible to be a member of or
8 have coverage by the Spring Lake Park Volunteer Firefighters
9 Relief Association while so employed."

1 M moves to amend S.F. No. 235; H.F. No.
2 372, as follows:

3 Page 1, before line 8, insert:

4 "Section 1. Minnesota Statutes 2004, section 353.64,
5 subdivision 1, is amended to read:

6 Subdivision 1. [POLICE AND FIRE PLAN MEMBERSHIP;
7 MANDATORY.] A governmental subdivision must report a public
8 employee for membership in the police and fire plan if the
9 employee is employed full time as a police officer or a
10 firefighter as specified in clause (1), (2), or (3):

11 (1) a full-time police officer or a person in charge of a
12 designated police or sheriff's department, who by virtue of that
13 employment is required by the employing governmental subdivision
14 to be and is licensed by the Minnesota peace officer standards
15 and training board under sections 626.84 to 626.863, who is
16 charged with the prevention and detection of crime, who has the
17 full power of arrest, who is assigned to a designated police or
18 sheriff's department, and whose primary job is the enforcement
19 of the general criminal laws of the state;

20 (2) a full-time firefighter or a person in charge of a
21 designated fire company or companies who, by virtue of that
22 employment, is required by the employing governmental
23 subdivision to be certified and is certified as a firefighter I
24 under National Fire Protection Association standard 1001, who is
25 assigned to a fire department, and whose primary job is the
26 suppression of fire, responding to medical emergencies, or
27 responding to hazardous materials situations while is engaged in
28 the hazards of fire fighting; or

29 (3) a full-time police officer or firefighter meeting all
30 requirements of clause (1) or (2), as applicable, who as part of
31 the employment position is periodically assigned to employment
32 duties in the same department that are not within the scope of
33 this subdivision.

34 An individual to which clause (3) applies must contribute
35 as a member of the police and fire plan for both the primary and
36 secondary services that are provided to the employing

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- 1 governmental subdivision."
- 2 Renumber the sections in sequence
- 3 Correct the internal references
- 4 Amend the title accordingly

1 M moves to amend S.F. No. 235; H.F. No.
2 372, as follows:

3 Page 1, after line 7, insert:

4 "Section 1. Minnesota Statutes 2004, section 353.01, is
5 amended by adding a subdivision to read:

6 Subd. 19a. [HAZARDOUS DUTY DISABILITY.] "Hazardous duty
7 disability" means the medically determinable inability to
8 perform the duties of the person's most recent position as a
9 police officer, firefighter, or paramedic as defined under
10 section 353.64, subdivision 10, as a direct result of an injury,
11 sickness, or other disability that incurred in or arose out of
12 any hazardous duty, which has rendered or is expected to render
13 the member physically or mentally unable to perform the duties
14 of the person's most recent position as a police officer,
15 firefighter, or paramedic as defined under section 353.64,
16 subdivision 10, for a period of at least one year.

17 Sec. 2. Minnesota Statutes 2004, section 353.01, is
18 amended by adding a subdivision to read:

19 Subd. 19b. [NONHAZARDOUS DUTY DISABILITY.] "Nonhazardous
20 duty disability" means the medically determinable inability to
21 perform the duties of the person's most recent position as a
22 police officer, firefighter, or paramedic as defined under
23 section 353.64, subdivision 10, because of an illness or an
24 injury occurring while on duty, but not while performing
25 hazardous duty, and by reason of that illness or injury the
26 member has been or is expected to be unable to perform the
27 duties of the person's most recent position as a police officer,
28 firefighter, or paramedic as defined under section 353.64,
29 subdivision 10, for a period of at least one year.

30 Sec. 3. Minnesota Statutes 2004, section 353.01, is
31 amended by adding a subdivision to read:

32 Subd. 19c. [NONDUTY DISABILITY.] "Nonduty disability"
33 means the medically determinable inability to perform the duties
34 of the person's most recent position as a police officer,
35 firefighter, or paramedic as defined in section 356.64,
36 subdivision 10, because of an illness or an injury occurring

1 while not on duty as a police officer, firefighter, or paramedic
 2 as defined under section 353.64, subdivision 10, and by reason
 3 of that illness or injury the member has been or is expected to
 4 be unable to perform the duties of the person's most recent
 5 position as a police officer, firefighter, or paramedic as
 6 defined under section 353.64, subdivision 10, for a period of at
 7 least one year.

8 Sec. 4. Minnesota Statutes 2004, section 353.01, is
 9 amended by adding a subdivision to read:

10 Subd. 19d. [HAZARDOUS DUTY.] (a) "Hazardous duty" means
 11 duty involving the employee operating police, firefighter, or
 12 paramedic equipment, the arrest, apprehension, or control of a
 13 suspect or prisoner, maintaining public order, responding to a
 14 911 call for police or fire services, administering emergency
 15 medical treatment, or transporting sick and injured persons to
 16 medical facilities.

17 (b) "Hazardous duty" does not mean attending or delivering
 18 training, home to work travel, routine patrol, physical fitness
 19 activities, caring for a police canine or police horse, fire or
 20 crime prevention activities that do not involve an actual
 21 response to an emergency situation, routine maintenance of any
 22 police or fire equipment or facility, or office work such as
 23 writing, filing reports, or computer work."

24 Page 3, after line 4, insert:

25 "Sec. 6. Minnesota Statutes 2004, section 353.656,
 26 subdivision 1, is amended to read:

27 Subdivision 1. [~~IN-LINE-OF~~ HAZARDOUS DUTY; COMPUTATION OF
 28 BENEFITS.] A member of the police and fire plan who becomes
 29 ~~disabled-and-physically-unfit-to-perform-duties-as-a-police~~
 30 ~~officer,-firefighter,-or-paramedic-as-defined-under-section~~
 31 ~~353.64,-subdivision-10,-as-a-direct-result-of-an-injury,~~
 32 ~~sickness,-or-other-disability-incurred-in-or-arising-out-of-any~~
 33 ~~act-of-duty,-which-has-or-is-expected-to-render-the-member~~
 34 ~~physically-or-mentally-unable-to-perform-the-duties-as-a-police~~
 35 ~~officer,-firefighter,-or-paramedic-as-defined-under-section~~
 36 ~~353.64,-subdivision-10,-for-a-period-of-at-least-one-year,-shall~~

1 suffers a hazardous duty disability is entitled to receive
2 disability benefits during the period of such the disability.
3 The-benefits-must-be in an amount equal to 60 percent of the
4 "average salary" as defined in section 353.651, subdivision 2,
5 plus an additional percent specified in section 356.315,
6 subdivision 6, of that average salary for each year of service
7 in excess of 20 years. If the hazardous duty disability under
8 this subdivision occurs before the member has at least five
9 years of allowable service credit in the police and fire plan,
10 the disability benefit must be computed on the "average salary"
11 from which deductions were made for contribution to the police
12 and fire fund.

13 Sec. 7. Minnesota Statutes 2004, section 353.656,
14 subdivision 2, is amended to read:

15 Subd. 2. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.]
16 If a member, as described in subdivision 1 or 3, is injured
17 under circumstances which entitle the member to receive benefits
18 under the workers' compensation law, the member shall is
19 entitled to receive the same benefits as provided in subdivision
20 1 or 3, whichever applies, with the disability benefits to be
21 paid reimbursed and future benefits reduced by all periodic or
22 lump sum amounts paid to the member under the workers'
23 compensation law, after deduction of amount of attorney fees,
24 authorized under applicable workers' compensation laws, paid by
25 a disabilitant if the total of the single life annuity actuarial
26 equivalent disability benefit and the workers' compensation
27 benefit exceeds: (1) the salary the disabled member received as
28 of the date of the disability or (2) the salary currently
29 payable for the same employment position or an employment
30 position substantially similar to the one the person held as of
31 the date of the disability, whichever is greater. The
32 disability benefit must be reduced to that amount which, when
33 added to the workers' compensation benefits, does not exceed the
34 greater of the salaries described in clauses (1) and (2).

35 Sec. 8. Minnesota Statutes 2004, section 353.656,
36 subdivision 3, is amended to read:

1 Subd. 3. [NONHAZARDOUS DUTY OR NONDUTY DISABILITY
2 BENEFIT.] Any (a) A member of the police and fire plan who
3 becomes disabled on duty, but not while performing hazardous
4 duty, or becomes disabled after not less than one year of
5 allowable service because-of-sickness-or-injury-occurring while
6 not on duty as a police officer, firefighter, or paramedic as
7 defined under section 353.64, subdivision 10, and-by-reason-of
8 that-sickness-or-injury-the-member-has-been-or-is-expected-to-be
9 unable-to-perform-the-duties-as-a-police-officer,-firefighter,
10 or-paramedic-as-defined-under-section-353.64,-subdivision-10,
11 for-a-period-of-at-least-one-year, is entitled to receive a
12 disability benefit. The benefit must be paid in the same manner
13 as if the benefit were paid under section 353.651.

14 (b) If a disability under this subdivision occurs after one
15 year of allowable service but in with less than 15 years of
16 allowable service, the disability benefit must be the same as
17 though the member had at least 15 years service.

18 (c) For a member who is employed as a full-time firefighter
19 by the Department of Military Affairs of the state of Minnesota,
20 allowable service as a full-time state Military Affairs
21 Department firefighter credited by the Minnesota State
22 Retirement System may be used in meeting the minimum allowable
23 service requirement of this subdivision.

24 Sec. 9. Minnesota Statutes 2004, section 353.656,
25 subdivision 4, is amended to read:

26 Subd. 4. [LIMITATION ON DISABILITY BENEFIT PAYMENTS.] (a)
27 No member is entitled to receive a disability benefit payment
28 when there remains to the member's credit unused annual leave or
29 sick leave or under any other circumstances when, during the
30 period of disability, there has been no impairment of the
31 person's salary as a police officer or a firefighter, or a
32 paramedic as defined under section 353.64, subdivision 10,
33 whichever applies.

34 (b) If a disabled member resumes a gainful occupation with
35 earnings-less-than-the-disabilitant-reemployment-earnings
36 limit in the public sector, the nonprofit sector, or the private

1 sector, the amount of the disability benefit must be reduced as
2 provided in this paragraph. The disabilitant reemployment
3 earnings limit is the greater of:

4 (1) the salary earned at the date of disability; or

5 (2) 125 percent of the salary currently paid by the
6 employing governmental subdivision for similar positions.

7 The disability benefit must be reduced by one dollar for
8 each three dollars by which the total amount of the current
9 disability benefit, any workers' compensation benefits, and
10 actual earnings from the gainful occupation exceed the greater
11 disabilitant reemployment earnings limit. In no event may the
12 disability benefit as adjusted under this subdivision exceed the
13 disability benefit originally allowed.

14 Sec. 10. Minnesota Statutes 2004, section 353.656,
15 subdivision 5, is amended to read:

16 Subd. 5. [PROOF OF DISABILITY.] (a) A disability benefit
17 payment must not be made except upon adequate proof of the
18 existence of a disability furnished to the executive director of
19 the association of the existence of a disability.

20 (b) During the time when disability benefits are being
21 paid, the executive director of the association has the right,
22 at reasonable times, to require the disabled member to submit
23 proof of the continuance of the disability claimed.

24 (c) Adequate proof of a disability must include a written
25 expert report by a licensed physician, by a licensed
26 chiropractor, or with respect to a mental impairment, by a
27 licensed psychologist.

28 (d) A person applying for a disability benefit must
29 terminate employment as a police officer, a firefighter, or a
30 paramedic as defined in section 353.64, subdivision 10,
31 whichever applies, on account of the disability. A person
32 applying for or receiving a disability benefit shall provide or
33 authorize release of medical evidence, including all medical
34 records and information from any source, relating to an
35 application for disability benefits or the continuation of those
36 benefits.

1 Sec. 11. Minnesota Statutes 2004, section 353.656,
2 subdivision 5a, is amended to read:

3 Subd. 5a. [CESSATION OF DISABILITY BENEFIT.] The
4 association shall cease the payment of an-in-line-of-duty
5 hazardous duty disability, nonhazardous duty disability, or
6 nonduty disability benefit the first of the month following the
7 reinstatement of a member to full time or less than full-time
8 service in a position covered by the police and fire fund.

9 Sec. 12. Minnesota Statutes 2004, section 353.656,
10 subdivision 8, is amended to read:

11 Subd. 8. [APPLICATION PROCEDURE TO DETERMINE ELIGIBILITY
12 FOR POLICE AND FIRE PLAN DISABILITY BENEFITS.] (a) An
13 application for disability benefits must be made in writing on a
14 form or forms prescribed by the executive director.

15 (b) If an application for disability benefits is filed
16 within two years of the date of the injury or the onset of the
17 illness that gave rise to the disability application, the
18 application must be supported by evidence that the applicant is
19 unable to perform the duties of the position held by the
20 applicant on the date of the injury or the onset of the illness
21 causing the disability. The employer must provide evidence
22 indicating whether the applicant is able or unable to perform
23 the duties of the position held on the date of the injury or
24 onset of illness causing the disability and the specifications
25 of any duties that the individual can or cannot perform.

26 (c) If an application for disability benefits is filed more
27 than two years after the date of the injury or the onset of an
28 illness causing the disability, the application must be
29 supported by evidence that the applicant is unable to perform
30 the most recent duties that are expected to be performed by the
31 applicant during the 90 days before the filing of the
32 application. The employer must provide evidence of the duties
33 that are expected to be performed by the applicant during the 90
34 days before the filing of the application, whether the applicant
35 can or cannot perform those duties overall, and the
36 specifications of any duties that the applicant can or cannot

1 perform.

2 (d) Unless otherwise permitted by law, no application for
3 disability benefits can may be filed by a former member of the
4 police and fire plan more-than-three-years after the former
5 member has terminated from Public-Employees-Retirement
6 Association police and fire plan covered employment. If-an
7 application-is-filed-within-three-years-after-the-termination-of
8 public-employment,-the-former-member-must-provide-evidence-that
9 the-disability-is-the-direct-result-of-an-injury-or-the
10 contracting-of-an-illness-that-occurred-while-the-person-was
11 still-actively-employed-and-participating-in-the-police-and-fire
12 plan.

13 (e) Any application for duty-related disability must be
14 supported by a first report of injury as defined in section
15 176.231.

16 (f) If a member who has applied for and been approved for
17 disability benefits before the termination of service does not
18 terminate service or is not placed on an authorized leave of
19 absence as certified by the governmental subdivision within 45
20 days following the date on which the application is approved,
21 the application shall be canceled. If an approved application
22 for disability benefits has been canceled, a subsequent
23 application for disability benefits may not be filed on the
24 basis of the same medical condition for a minimum of one year
25 from the date on which the previous application was canceled.

26 (g) An applicant may file a retirement application under
27 section 353.29, subdivision 4, at the same time as the
28 disability application is filed. If the disability application
29 is approved, the retirement application is canceled. If the
30 disability application is denied, the retirement application
31 must be initiated and processed upon the request of the
32 applicant. A police and fire fund member may not receive a
33 disability benefit and a retirement annuity from the police and
34 fire fund at the same time.

35 (h) A No repayment of a refund must-be-made-within-six
36 months-after-the-effective-date-of-disability-benefits or within

1 six-months-after-the-date-of-the-filing-of-the-disability
2 application, whichever is later. -- No purchase of prior service
3 or payment made in lieu of salary deductions otherwise
4 authorized under section 353.01 or 353.36, subdivision 2, may be
5 made after the occurrence of the disability for which an
6 application is filed under this section.

7 Sec. 13. [EFFECTIVE DATE.]

8 Sections 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, and 12 are
9 effective on the day following final enactment and apply in
10 cases where the disability benefit is first approved on or after
11 the effective date of these sections."

Senator Betzold introduced--

S.F. No. 235: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to retirement; permitting certain employees of Blaine, Spring Lake Park, and Mounds View to become members of the Public Employees Retirement Association police and fire fund; amending Minnesota Statutes 2004, section 353.64, by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 353.64, is amended by adding a subdivision to read:

Subd. 12. [PENSION AND DISABILITY COVERAGE FOR BLAINE, SPRING LAKE PARK, AND MOUNDS VIEW FIREFIGHTERS AND EMERGENCY RESPONDERS.] (a) An employee of Blaine, Spring Lake Park, or Mounds View who is:

(1) assigned primarily to engage in emergency response activities for firefighting, medical emergencies, and hazardous materials situations;

(2) a member of the Blaine, Spring Lake Park, or Mounds View independent nonprofit firefighting corporation;

(3) in compliance with all rules, regulations, and requirements of the Blaine, Spring Lake Park, or Mounds View independent firefighting corporation and maintains a minimum of 60 hours per year of ongoing continuing firefighting education;

(4) certified by the Minnesota Fire Certification Board as a firefighter I or higher;

(5) certified by the National Registration Board as a first responder;

1 (6) certified as a hazardous materials specialist by an
2 accredited institution;

3 (7) employed primarily by Blaine, Spring Lake Park, or
4 Mounds View as a firefighter or emergency responder on or after
5 the effective date of this act; and

6 (8) not eligible after the effective date of this act for
7 coverage under the agreement signed between the state and the
8 secretary of the federal Department of Health and Human Services
9 making the provisions of the federal Old Age, Survivors, and
10 Disability Insurance Act applicable because the person's
11 position is excluded after that date from application under
12 section 355.07 and United States Code, title 42, sections
13 418(d)(5)(A) and 418(d)(8)(D);

14 is a member of the public employees police and fire fund under
15 sections 353.63 to 353.68. Blaine, Spring Lake Park, and Mounds
16 View shall deduct the employee contribution from the salary of
17 each individual as required by section 353.65, subdivision 2;
18 shall make the employer contribution for each position as
19 required by section 353.65, subdivision 3; shall meet the
20 employer recording and reporting requirements in section 353.65,
21 subdivision 4; and shall file a resolution with the board of
22 trustees specifying the positions designated to primarily be
23 engaged in emergency response activities for firefighting,
24 medical emergencies, and hazardous materials situations.

25 (b) An employee who meets the requirements of paragraph (a)
26 and who becomes a member of the public employees police and fire
27 fund under sections 353.63 to 353.68 is eligible for disability
28 benefits under the public employees police and fire fund under
29 section 353.656, subdivision 1, only if the member becomes
30 disabled and physically unfit to perform duties as a firefighter
31 as a direct result of an injury, sickness, or other disability
32 which occurred while the member was:

33 (1) engaged in responding to an emergency call for
34 assistance;

35 (2) engaged in firefighting training; or

36 (3) engaged in fire suppression or rescue activities at the

1 scene of a fire or rescue.

2 (c) An employee who meets the requirements of paragraph (a)
3 but does not meet the requirements of paragraph (b) is eligible
4 for disability benefits under subdivision 3.

5 [EFFECTIVE DATE.] This section is effective the day
6 following final enactment.

1 A bill for an act

2 relating to retirement; public employees police and
3 fire retirement plan; permitting certain employees of
4 Blaine, Spring Lake Park, or Mounds View to become
5 members of the retirement plan; amending Minnesota
6 Statutes 2004, sections 353.64, by adding a
7 subdivision; and 353.656, subdivision 1.

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

9 Section 1. Minnesota Statutes 2004, section 353.64, is
10 amended by adding a subdivision to read:

11 Subd. 12. [PENSION AND DISABILITY COVERAGE FOR BLAINE,
12 SPRING LAKE PARK, AND MOUNDS VIEW FIREFIGHTERS AND EMERGENCY
13 RESPONDERS.] (a) A qualified employee of the city of Blaine, the
14 city of Spring Lake Park, or the city of Mounds View is a member
15 of the public employees police and fire retirement plan governed
16 by sections 353.63 to 353.68, subject to the limitations set
17 forth in section 353.656, subdivision 1, paragraph (b).

18 (b) A qualified employee is a person who is:

19 (1) assigned by the applicable city primarily to engage in
20 emergency response activities for firefighting, medical
21 emergencies, and hazardous materials situations within the
22 service area of the Blaine, Spring Lake Park and Mounds View
23 independent nonprofit firefighting corporation;

24 (2) a member of the Blaine, Spring Lake Park, and Mounds
25 View independent nonprofit firefighting corporation;

26 (3) in compliance with all applicable published rules,

1 regulations, and requirements of the Blaine, Spring Lake Park,
2 and Mounds View independent nonprofit firefighting corporation
3 and maintains an annual minimum of 60 hours of ongoing
4 continuing firefighting education;

5 (4) certified by the Minnesota Fire Certification Board or
6 a comparable certification organization recognized by the
7 International Fire Service Accreditation Congress as meeting the
8 requirements of a firefighter I under National Fire Protection
9 Association standard 1001 or higher;

10 (5) certified by the Minnesota Emergency Services
11 Regulatory Board as meeting the requirements of a first
12 responder;

13 (6) certified as a hazardous materials specialist by an
14 accredited institution; and

15 (7) not eligible after the effective date of this act for
16 coverage under the agreement signed between the state and the
17 secretary of the federal Department of Health and Human Services
18 making the provisions of the federal Old Age, Survivors, and
19 Disability Insurance Act applicable because the person's
20 employment position is excluded as that of a firefighter after
21 that date from application under section 355.07 and United
22 States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D).

23 (c) Blaine, Spring Lake Park, or Mounds View, whichever
24 applies, shall: (1) deduct the employee contribution from the
25 salary of each individual as required by section 353.65,
26 subdivision 2; ; (2) make the employer contribution for each
27 position as required by section 353.65, subdivision 3;; (3) meet
28 the employer recording and reporting requirements in section
29 353.65, subdivision 4; and; and (4) file a resolution with the
30 board of trustees of the Public Employees Retirement Association
31 specifying that the city employment the positions designated are
32 primarily engaged in emergency response activities for
33 firefighting, medical emergencies, and hazardous materials
34 situations.

35

36 Sec. 2. Minnesota Statutes 2004, section 353.656,

1 subdivision 1, is amended to read:

2 Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF
3 BENEFITS.] (a) A member of the police and fire plan who becomes
4 disabled and physically unfit to perform duties as a police
5 officer, firefighter, or paramedic as defined under section
6 353.64, subdivision 10, as a direct result of an injury,
7 sickness, or other disability incurred in or arising out of any
8 act of duty, which has or is expected to render the member
9 physically or mentally unable to perform the duties as a police
10 officer, firefighter, or paramedic as defined under section
11 353.64, subdivision 10, for a period of at least one year, shall
12 receive disability benefits during the period of such
13 disability. The benefits must be in an amount equal to 60
14 percent of the "average salary" as defined in section 353.651,
15 subdivision 2, plus an additional percent specified in section
16 356.315, subdivision 6, of that average salary for each year of
17 service in excess of 20 years. If the disability under this
18 subdivision occurs before the member has at least five years of
19 allowable service credit in the police and fire plan, the
20 disability benefit must be computed on the "average salary" from
21 which deductions were made for contribution to the police and
22 fire fund.

23 (b) A qualified employee who meets the requirements of
24 section 353.64, subdivision 12, paragraph (b), and who becomes a
25 member of the public employees police and fire fund under
26 sections 353.63 to 353.68 is eligible for a duty disability
27 benefit under the public employees police and fire retirement
28 plan under this section, only if the person becomes disabled and
29 physically unfit to perform future duties for the Blaine, Spring
30 Lake Park and Mounds View independent nonprofit firefighting
31 corporation as a firefighter as a direct result of a medically
32 determinable injury, sickness, or other disability which
33 occurred while the member was:

34 (1) engaged in responding to an emergency call for
35 assistance from the Blaine, Spring Lake Park and Mounds View
36 independent nonprofit firefighting corporation;

1 (2) engaged in firefighting training provided by or
2 authorized by the Blaine, Spring Lake Park and Mounds View
3 independent nonprofit firefighting corporation; or

4 (3) engaged in fire suppression or rescue activities at the
5 scene of a fire or rescue involving the Blaine, Spring Lake Park
6 and Mounds View independent nonprofit firefighting corporation.

7 (c) A qualified employee who meets the requirements of
8 paragraph (a) but who does not meet the requirements of
9 paragraph (b) is only eligible for a disability benefit under
10 subdivision 3.

11 Sec. 3. [EFFECTIVE DATE; LOCAL APPROVAL.]

12 Section 1 is effective on the day after which the last of
13 the governing bodies of the city of Blaine, the city of Spring
14 Lake Park, and the city of Mounds View and that city's chief
15 clerical officer timely complete their compliance with Minnesota
16 Statutes, section 345.021, subdivisions 2 and 3.

From: Mary.Vanek@state.mn.us
Sent: Wednesday, April 20, 2005 4:13 PM
To: sen.larry.pogemiller@senate.mn
Subject: Discussion with Senator Pogemiller

Senator,

I received a phone call from Nyle Zikmund and Brian Rice regarding Nyle's bill. If it is decided that the Blaine, Spring Lake Park, Mounds View firefighter pension coverage bill should move forward, at a minimum we need the attached amendment. Nyle and Brian have agreed with the suggested language in this amendment, but I asked that they have Pension Commission staff clean it up, because I am not proficient in drafting laws.

<<Nyle's.amendment.05.doc>>

However, the PERA Board of Trustees opposes the bill, and I don't think that any amendment will lessen the Board's opposition to the departure from policy they see in this bill. They see the Police and Fire Plan as providing benefits for those whose primary work is associated with the professions of law enforcement and firefighting, and that the volunteer relief associations are designed for those who have other primary occupations, but who are providing service to the public through volunteer fire departments.

The individuals for whom Nyle and Brian are trying to get Police and Fire coverage cannot get credit in the volunteer relief association for participation in these volunteer fire department activities during the same hours that they are covered by the Coordinated Plan on their regular jobs, because PERA law states that they cannot receive credit in PERA's Coordinated Plan if they are getting credit for the same period of service in a volunteer relief plan. Why can't the law be changed in instances like these to allow the dual coverage?

I fully understand and empathize with Nyle on what he is trying to achieve here, but I really struggle with providing Police and Fire benefit coverage to individuals employed primarily in other capacities. Nyle makes a strong case by referring to those firefighters employed as full-time professional firefighters who spend considerable time maintaining equipment and the fire station building, grounds, etc., who are covered by P&F. He has tried to convince me that the individuals for whom he seeks coverage are no different, and points out that we are limiting the special benefits that would be extended to his folks under P&F to be more in line with what we believe to be the intent of those benefits. That is true. However, we (PERA staff) are having a hard time now with restricting coverage for individuals who are assigned firefighting duties, but who are not specifically employed by a fire department (out-state municipal airports, for example). Approval of the approach in this bill only increases the lack of clarity as to who was intended to be covered by the Police and Fire Fund for the work of firefighting.

I have to leave the office for a family commitment, but you can reach me on my cell phone at (612) 965-4853. Do not hesitate to call me.

Mary Vanek

Page 3, (c) as amended by the pension commission reads:

“(c) A qualified employee who meets the requirements of paragraph (a) but who does not meet the requirements of paragraph (b) is eligible for a disability benefit under subdivision 3.”

PERA prefers it to read:

(c) A qualified employee who meets the requirements of paragraph (a) but who does not meet the requirements of paragraph (b) is only eligible for a disability benefit defined as total and permanent under section 353.01, subdivision 19.

(1) If the non-duty disability is determined to be total and permanent, the disability benefit payable must be paid in the same manner as if the benefit were paid under section 353.651, with a minimum benefit payable of 45 percent of the “average salary” as defined under section 353.651, subdivision 2, plus an additional percentage specified in section 356.315, subdivision 6 of that average salary for each year of service in excess of 15 years.

(2) If the employee is found not to qualify for a non-duty disability as defined under section 353.01, subdivision 19, the employee ceases to be a member of the public employees police and fire retirement fund under sections 353.63 to 353.68. *

(3) If the employee continues to be employed by Blaine, Spring Lake Park or Mounds View in a position other than that of firefighter, the employee is to be reported for coverage as a coordinated member in the general employees retirement plan of the Public Employees Retirement Association. Upon retirement, the employee is entitled to benefits determined under section 356.30. *

* We need to define when P&F coverage ceases, which should then define when coordinated plan coverage is to start, but I’m not sure how to define it – maybe the first pay period following notification that the person doesn’t qualify for the non-duty disability.

MINUTES

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Meeting of the Board of Trustees

February 12, 2004

The Board of Trustees of the Public Employees Retirement Association met in regular session in the Association offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota, on Thursday, February 12, 2004, at 9:30 a.m., notice having been given ten days prior thereto by the Secretary.

The following members were present:

Terri Heaton
President

Pat Anderson
Ross Arneson
Steven Devich
Walter Gray

Dennis Hegberg
Thomas Marshall
Terry Martinson
Gary Norstrem

Excused: Lois Riecken, Dawn Hulmer

constituting a quorum.

Staff members present: Mary Most Vanek, Executive Director; Dave DeJonge, Assistant Executive Director; Jon Murphy, Assistant Attorney General; Rory Foley, Assistant Attorney General; Lance LaFrombois, Legal and Legislative Affairs Coordinator; Allen Eldridge, Pension Services Manager; Cheryl Keating, Manager of Account Information Management; Sandy Stolt, Administrative Secretary and Mary Daly, Executive Assistant.

Others present: Sally Christensen, PEPSA; Richard Bro, Anoka County; Jim Huff, Anoka County; Lona Schreiber, Anoka County; Melanie Ault, Anoka County; Chuck Westin, PEPSA; Fred Babekuhl, St. Paul Fire Fighters Local 21; Dave Johnson, Best & Flanagan; Tim Boehlice; Lake Johanna Fire Dept; Kristopher Krentz, Robin, Thompson & Doyle, P.A.; Shirley Ricco; and Mike Schwab, former St. Paul Police Relief.

1.0 Call to Order

President Heaton called the meeting to order at 9:35 a.m.

2.0 Consent Calendar

Devich moved to approve the consent calendar as presented. The motion was seconded by Martinson and passed unanimously.

3.0 Policy Decision Items

3.1 Survivor Benefit Appeal for Shirley Ricco

Reference was made to a memo from Mary Most Vanek dated February 2, 2004 and to a letter from Kristopher J. Krentz dated February 9, 2004

Vanek reported the following facts associated with the appeal:

- ◆ Shirley Ricco's former husband was a member of the St. Paul Relief Association. He retired in 1977; they divorced in December 1981.
- ◆ The Relief Association consolidated under PERA's administration effective April 30, 1994 and then merged into the Police and Fire Fund July 1, 1999.
- ◆ Mr. Ricco passed away in August 2001.
- ◆ Last fall, PERA was contacted by Ms. Ricco's attorney as to whether or not she qualified for survivor benefits through the former St. Paul Relief Association.

Vanek continued that after review of the record, it was determined that when the original consolidated statute was enacted (1987), a separate chapter was created that codified the benefit provisions of all of the local relief associations that could potentially consolidate under PERA's administration. With respect to the survivor benefits available to the spouses of former members of the St. Paul Police Relief Association, the statute stated that survivor benefits were payable if the parties were married for at least one year before termination of service and if they were married at the time of the retiree's death

Vanek went on to explain that the laws in effect at the time Mr. Ricco retired from the St. Paul Police Department stated that "widows were entitled to benefits if they were married to the pensioner for at least one year before separation from service." She further explained that the laws governing the survivor benefits payable to spouses of former St. Paul Police Relief Association members did not include the statement with respect to "married at the time of death."

Vanek stated that PERA staff has consistently applied an interpretation of the law that includes the fact that a couple has to be married for at least one year prior to separation from service, but also, that they have to be married at the time of the individual's death, in order for survivor benefits to be paid.

Staff's position: Ms. Ricco is not entitled to survivor benefits through the former St. Paul Relief Association, now part of PERA Police and Fire.

Mr. Krentz, attorney for Ms. Ricco, addressed the Board of Trustees. He stated that Ms. Ricco is entitled to pension benefits under the rules of the St. Paul Police Relief Association, because Ms. Ricco was the wife of Mr. Ricco while he was an active member and she was married to him for at least one year before his retirement.

He continued that laws enacted during the consolidation of the Relief Association preserved Ms. Ricco's rights to the pension benefit.

Mr. Krentz's question before the Board is, if they decide not to grant this request, how are they going to resolve the issue of adding the additional element of having to be married at the time of death?

In response to a question from Arneson, Mr. Krentz stated the issue of pension benefits did not enter into the divorce decree because it was handled by the rules in place at the time. Their intention was to keep it the exact same way so there was no reason to handle it. (The rules to which Mr. Krentz was referring is an interpretation that the survivor benefits would be payable, despite the divorce, because the couple were married for at least one year prior to Mr. Ricco's retirement.)

In response to a question from Foley, Ms. Ricco stated that she has not filed for survivor benefits with social security.

Devich stated that his concern lies with the issue of consistency with how people were treated in the past. He noted that PERA staff reported they have consistently treated people who were in similar situations the same as they are in this situation. Former PERA Board member and former St. Paul Police Relief Association board member, Mike Schwab, indicated that it was his recollection that PERA staff's interpretation of who is eligible for survivor benefits from the Relief Association is consistent with how individuals were treated in the past by the local relief association board and by PERA.

Devich continued that he would have a very difficult time at this point in time to start treating someone differently than people were treated in the past.

Marshall stated that a lot of the relief associations had an automatic survivor benefit built into the benefit design, generally fifty-percent of a first class police officer's or firefighter's wages. The interpretation of the bylaws that the relief associations were operating under is consistent with the PERA staff's interpretation, and Marshall believes that the Board would be correct to deny the request.

Gray moved that the Board of Trustees accept staff's recommendation and deny Ms. Ricco's request for survivor benefits because she was not married to Mr. Ricco when he died. The Board should advise Ms. Ricco that she could appeal further to the Minnesota State Court of Appeals. The motion was seconded by Hegberg and passed unanimously.

3.2 Anoka County Legislative Proposal

Reference was made to a document on the history of Privatization prepared by Mary Most Vanek

Heaton stated that this issue was discussed at length at the January Board Meeting and the discussion is reflected in the minutes. She noted that there were information items that the staff had been asked to bring to this meeting.

Vanek highlighted some points in the history of Privatization.

Vanek stated that in doing research she came across a provision enacted in section 471A.10 that says, "Individuals employed in a municipal facility at the time a private vendor purchases or leases the facility, may continue participation in PERA." That law is still in the books and this needs to be addressed with Legislative Commission staff.

Murphy shared some comments with the Trustees. He noted that the PERA fund is a governmental fund for the State's political subdivisions. As a governmental fund, it enjoys tax-qualified status with the Internal Revenue Service (IRS), and it is exempt from regulatory provisions of the federal Employee Retirement and Income Security Act of 1974 (ERISA). He noted that the Board's fiduciary duties include the duty to assure that the tax-qualified and exempt status remains.

Murphy asked the question, "Should the Board be taking any position on any entity when there is doubt about their status, without first getting a ruling from the Department of Labor?" He noted that requiring a ruling would be a good step in keeping with their duties as fiduciaries.

In response to a question from Heaton, Murphy stated that the process for a ruling is to write to the Department of Labor, and that this process takes time.

Heaton stated that since there is legislation already introduced, the only issue before the Board today is whether or not to oppose the legislation.

Vanek reported on the outcome of the actuarial work for the Anoka County employees employed through the Achieve program. She noted that the results show that if this group of employees continues participation in PERA, the projected accrued liability is over \$2.5 million. She explained that this represents the cost already included in the valuation of the plan; therefore, allowing this group of employees to continue in PERA is cost-neutral. She noted that if this group of employees is no longer covered by the fund, and they don't get anything other than whatever any other terminating member would receive, the cost of their benefits earned to date is estimated to be \$1.7 million. She further commented that if this group were added to the Privatized plan, the cost of the enhanced benefits available to them would be about \$2 million. Vanek noted that since the cost of the enhanced benefits is less than their on-going cost, the fund still realizes a slight gain, thus allowing them to move to the Privatization Plan does not hurt the fund.

Devich commented that he has struggled with what position to take on this issue because on the one hand, there are 44 members who would like to stay in PERA, while on the other hand, it is unclear how many more groups may come forward. His questions were: What is going to happen in the future? What would be the impact if the Board stays neutral on this? He noted that he is concerned over the setting a precedent.

Norstrom stated that he still has concerns with the bill language that states that 49 people could stay in PERA at the time of transfer when there are only 42 people working now.

Vanek clarified that if the legislation before the Board today was enacted and there was someone newly hired, they would pay into the plan like anybody else and they would not be immediately vested. If the legislation to move the group to the Privatization plan were enacted, new hires would be immediately vested.

Gray moved to not oppose the legislation, but to defer to the Pension Commission and the Legislature to make a decision and also suggest that the new organization get a private letter ruling from the Department of Labor as to their qualified tax status.

The motion failed for lack of a second.

Norstrem moved to oppose the legislation as drafted. The motion was seconded by Marshall.

Norstrem stated one of the major points needed in the legislation is that there be a specific date of transfer and a specific number of actual employees. Another point is explaining to the Commission staff and members of the Legislature some of the issues that were brought before the Board at this meeting, such as the need for a labor or revenue ruling and how this issue will likely to continue.

Arneson wants to be sure that the Board does not do anything that will affect PERA's status with the IRS.

Marshall thinks that this legislation should be opposed until there is a Department of Labor ruling.

Lona Schrieber, Anoka County, stated that it is her understanding that the ruling takes a number of years and they need an answer now. She is very nervous what would happen if this Board opposes this legislation; they would have a very hard time getting this legislation passed.

Dave Johnson, an attorney representing Anoka County, restated that these rulings take a number of years and there is a tremendous cost. The filing fee alone is \$1,500 and the legal cost involved is between \$5,000 and \$10,000.

Gray stated that this is an opportunity for the Board to get an expert opinion. There are going to be more and more entities like Anoka County's program coming before the Board.

Arneson supports the motion, noting that while he would like to help out the 44 individuals from Anoka County, he would also like to get a ruling from the Department of Labor because he does not want to risk the IRS status of the entire plan.

Hegberg noted that he would vote against the motion because there is already a bill that states they can continue in PERA.

Martinson supports the motion but would go further by adding that they get a private letter ruling. They would be able to retroactively get into PERA if that was the ruling.

The motion carried by majority with Hegberg voting no.

Anderson moved that staff and staff attorneys prepare information for the Board

on the best course for PERA to get rulings in the future. The motion was seconded by Martinson and passed by majority with Arneson voting no.

Anderson moved that the Board has identified bill 471A and the PERA Board of Trustees supports staff going forward to address outdated legislation. The motion was seconded by Devich and passed unanimously.

3.3 Legislation Authorizing PERA Coverage of the Lake Johanna Volunteer
Fire Department

LaFrombois stated that the Lake Johanna Volunteer Fire Department wants Board input before introducing legislation that would provide PERA P&F coverage to the full-time paid firefighters and allow these new P&F members to purchase service credit in the P&F plan. He further noted that if there were employees of the department who are not eligible for P&F coverage, they would be eligible for the Coordinated Plan.

LaFrombois continued that the cities of Shoreview, Arden Hills and North Oaks have entered into a joint powers agreement and have formed a joint fire protection board which has contracted with Lake Johanna Volunteer Fire for provision of fire protection services.

The question before the PERA Board is, "Do they wish to take a position on the proposed legislation providing PERA coverage of employees of the Lake Johanna Fire Department?"

Vanek stated that they looked very closely at the Spring Lake Park private letter ruling and compared Lake Johanna to that. She noted that she was comfortable proceeding with allowing the paid personnel of the fire department into PERA without an independent ruling, because they are nearly identical to Spring Lake Park in their structure.

Dave Johnson, an attorney representing Lake Johanna Fire Department, addressed the Board. He stated that the Spring Lake Park Volunteer Fire Department is a nonprofit fire fighting corporation set up by three cities to try to pool resources to provide fire protection services in their communities. They approached PERA a few years ago to have their full-time employees who would otherwise be eligible to participate in PERA but for the status of the fire department as a non-profit corporation. At that time, a decision was made to be conservative and go to the IRS to get a revenue ruling from the Service that they were in fact an agency that is an instrumentality of the State of Minnesota and its political subdivision. They were, therefore, allowed to participate.

Johnson continued that when he was approached by Lake Johanna, they came to PERA to say that this was the same as Spring Lake Park, because it is controlled by the cities of Arden Hills,

North Oaks and Shoreview and almost all the funding comes from these cities. Fifty percent of the assets are owned by the City of Shoreview.

In response to a question by Anderson, Johnson said that the Lake Johanna Fire Corporation Board was made up of four members appointed by the cities and three appointed by the membership. The cities control the Board.

There was some discussion by the Trustees about belonging to a Relief Association and PERA. The law states that a firefighter can not get credit in both funds for the same service.

Devich moved that the PERA Board not oppose this legislation based on the 1999 ruling of Spring Lake Park. The motion was seconded by Gray.

Marshall stated that he thinks this is a bad direction for the Police and Fire Fund. There is going to be a move to incorporate more paid on-call people who don't necessarily work much more than 14 hours a week.

In response to a question from Norstrom, Lake Johanna fire fighter, Tim Boehlice stated that the three cities have a joint powers agreement and each city has a separate 20-year contract with the Lake Johanna Volunteer Fire Department.

Heaton stated that if Lake Johanna were employees of the joint powers agreement, the Board would be more comfortable.

In response to a question from Marshall, Boehlice stated that he would not be allowed to purchase PERA service credit for his years in the Relief Association, but only for the time that the Lake Johanna Fire Department was incorporated and for which he was a full-time employee of the Department, which would be a year and a half of service credit.

Vanek stated that the IRS noted in the Spring Lake Park determination that while it would be more comfortable if the individuals were employed by one of the cities, they recognize the fact that because this is a cooperative effort to share costs for fire prevention services, that the structure is reasonable.

Anderson stated that they are clearly controlled by a subdivision of the city. It would be easier if they worked for a specific city, but they don't. She will support the motion.

Heaton stated that she also would support the motion. She added that at this point, there is a joint powers agreement and maybe the fire department could be employees of that joint board.

Norstrem is not going to support the resolution because he thinks they should be able to work out a joint powers agreement with the board which would automatically make them a covered public employee.

The motion passed by majority with Marshall, Hegberg and Norstrem voting no.

4.0 Informational Items

4.1 State Warrants

Reference was made to a memo from Dave DeJonge dated February 3, 2004

5.0 Other Business

LaFrombois pointed out that in the 2003-04 Bill Tracking document, the new bills introduced this year pertaining to PERA, were highlighted in blue.

6.0 Date of Next Meeting

The next meeting of the PERA Board of Trustees will be held Thursday, March 11, 2004, 9:30 a.m. in room 117 of the State Retirement Systems of Minnesota Building

7.0 Adjournment

There being no further business to come before the Board, President Heaton adjourned the meeting at 11:30 a.m.

Mary Most Vanek, Executive Director
Saint Paul, Minnesota

MINUTES

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Meeting of the Board of Trustees

December 9, 2004

The Board of Trustees of the Public Employees Retirement Association met in regular session in the Association offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota, on Thursday, December 9, 2004, at 9:30 a.m., notice having been given ten days prior thereto by the Secretary.

The following members were present:

Dawn Hulmer
President

Patricia Anderson/Carla Heyl
Ross Arneson
Steven Devich
Walter Gray
Terri Heaton

Dennis Hegberg
Thomas Marshall
Terry Martinson
Gary Norstrem

constituting a quorum.

Excused: Marcia Farinacci

Staff members present: Mary Most Vanek, Executive Director; Jon Murphy, Assistant Attorney General; Rory Foley, Assistant Attorney General; Dave DeJonge, Assistant Executive Director; Allen Eldridge, Pension Services Manager; Cheryl Keating, Account Information Manager; Lance LaFrombois, Legal and Legislative Affairs Coordinator; Martin Kvidera, State Program Administrator Principal; Sandy Stolt, Administrative Secretary and Mary Daly, Executive Assistant.

Others present: Sally Christensen, PEPSA; Chuck Westin, PEPSA; Calvin Saari, Cal Sari Consulting; Chris Cowen, AFSCME; Fred Babekuhl, St. Paul Firefighters Local 21; Curtis Jacobsen, City of Isanti; David Peterson, City of Isanti; Randy Polzin, Isanti Fire Department.

1.0 Call to Order

President Hulmer called the meeting to order at 9:30 a.m.

2.0 Consent Calendar

Devich moved to approve the consent calendar as presented. The motion was seconded by Gray and passed unanimously.

3.0 Policy Decision Items

3.1 Application for Police and Fire Plan Duty Related Disability Benefits -
Michael Rasmussen

Reference was made to a fact sheet dated November 29, 2004 from Allen Eldridge and Patricia Kappelhoff.

Eldridge provided the following facts associated with the application.

In February 2004, Michael Rasmussen, a police officer, applied for a duty-related disability in the Police and Fire Plan.

Rasmussen submitted medical reports from three different doctors who all supported the claim that he was unable to perform the duties of a police officer and that his disability was duty related.

PERA's medical advisors, the Minnesota Department of Health (MDH), recommended that the member have an independent medical exam (IME). The doctor who performed the exam reported that Mr. Rasmussen was able to perform his duties as a police officer.

Based upon the results of the IME, the MDH denied the duty-related disability benefit for Mr. Rasmussen.

Mr. Rasmussen appealed that denial and a fact-finding hearing was held. The Administrative Law Judge's (ALJ) recommendation is that the Board of Trustees approves Mr. Rasmussen's application for duty-related disability benefits in the Police and Fire Plan, because the medical documentation submitted supports the claim.

Staff Recommendation: That the PERA Board of Trustees adopt the Administrative Law Judge's Findings of Fact, Conclusions and Recommendation and approve Michael Rasmussen's Application for Duty Related Disability Benefits from the Police and Fire Plan. Additionally, staff recommends that Mr. Rasmussen be re-examined by his doctor and PERA's medical advisor one year from the date of this action in order to determine if Mr. Rasmussen remains occupationally disabled.

The staff further recommends that the Board direct the Executive Director to issue an Order consistent with the Board's decision and advise Mr. Rasmussen that he may seek review of the Board's decision by way of a petition for writ of certiorari pursuant to MN Stat. 606.01.

Gray moved that the Board accept the staff's and the ALJ's recommendation and approve the Application for Duty Related Disability Benefits from the Police and Fire Plan for Michael Rasmussen, and require that he be re-examined in one year by PERA's medical advisor. The motion was seconded by Hegberg and passed unanimously.

[Heaton arrived at 9:40 a.m.]

3.2 Application for Total and Permanent Disability Benefits - Sharon Brogan

Reference was made to a fact sheet dated December 2, 2004 from Allen Eldridge and Patricia Kappelhoff.

Eldridge provided the following facts associated with the application.

In October 2002, the MDH approved an application for disability benefits for Sharon Brogan in the Coordinated Plan, with the recommendation that she be re-evaluated in one year.

In November of 2003, Ms. Brogan applied for continuation of the benefit and submitted a medical report from her doctor. It was her doctor's opinion that Ms. Brogan was not totally and permanently disabled.

In October of 2004, PERA received an employability evaluation from a Qualified Rehabilitation Counselor (QRC) and it was his opinion that Ms. Brogan does not fulfill the qualifications for total and permanent disability because she is capable of substantial gainful activity.

On November 4, 2004, a fact-finding conference was held. Ms. Brogan did not attend the conference. The ALJ's recommendation to the Board of Trustees is that the Board deny Ms. Brogan's Application for Continuation of Disability Benefits, because she is able to engage in substantial gainful activity, and jobs within her restrictions are available in her labor market.

Staff Recommendation: That the PERA Board of Trustees adopt the Administrative Law Judge's Findings of Fact, Conclusions and Recommendation

and deny Sharon Brogan's Application for Continuation of PERA Disability Benefits from the Coordinated Plan because she is not totally and permanently disabled as defined by Minn. Stat. 353.01 subd. 19.

Staff further recommends that the Board direct the Executive Director to issue an Order consistent with the Board's decision and advise Ms. Brogan that she may seek review of the Board's decision by way of a petition for writ of certiorari pursuant to Minn. Stat. 606.01.

Anderson moved that the Board accept the staff's and the ALJ's recommendation and deny Sharon Brogan's Application for Continuation of PERA Disability Benefits from the Coordinated Plan. The motion was seconded by Gray and passed unanimously.

3.3 Membership Appeal - Randy Polzin

Reference was made to the Staff Summary of Facts and Events dated November 30, 2004 from Cheryl Keating.

Keating provided the following facts associated with the application.

- Randy Polzin is the Fire Chief of the Isanti Volunteer Fire Department. In 2003, Mr. Polzin received approximately \$8,500 for services rendered. Isanti City did not withhold PERA deductions from that amount.
- The question before the Board is, whether any portion of the compensation Mr. Polzin received for services to the Volunteer Fire Department qualify as salary for PERA membership purposes.
- The Isanti City Administrator, Curtis Jacobsen, considers all members of the Volunteer Fire Department to be volunteers, regardless of any position they hold within the volunteer organization. He describes the role of the fire chief to be a higher level function that is associated with a single job as a volunteer firefighter. He depicts the \$8,500 as an honorarium and not as wages to a public employee. Additionally, Mr. Jacobsen stated that Isanti City believes under Minn. Stat. 353.01, the services are excluded because Mr. Polzin is a volunteer firefighter who is a member of the Isanti Volunteer Relief Association.
- Mr. Polzin contends that the administrative duties of the chief are different in character than the services rendered at the scene of emergencies. He believes the administrative duties of the chief are those of a public employee under Minnesota Statute and that PERA deductions should be withheld from the compensation he

- receives for the administrative duties. Mr. Polzin believes that it is only the services rendered at the scene of an emergency that should be excluded from PERA coverage.
- In making a determination, staff considered the membership provision in Minn. Stat. 353.01 which was enacted in 1989 to prevent dual pension coverage for volunteer firefighters. Under subdivision 2b, a volunteer firefighter may not participate in a PERA plan for activities that are undertaken as part of volunteer firefighter's duties. However, a person who is a volunteer may become a member of PERA on the basis of compensation from public employee activities other than those of a volunteer firefighter. Under subdivision 36, a person is considered a volunteer for all service for which the person receives credit in a volunteer relief association.
 - As part of PERA's review, staff looked at Isanti Relief Association's by-laws. It did not state which duties of the fire chief or the firefighters are or are not covered by its Plan.
 - After much discussion and consultation with PERA's legal advisor, staff concurred with the determination that had been made by Isanti City. The services rendered by Mr. Polzin are those of a volunteer firefighter and the associated compensation is not PERA eligible salary, because Mr. Polzin is earning benefits in the Isanti Volunteer Relief Association.

Staff Recommendation: That the Board find that Randy Polzin remain ineligible for membership in the Public Employees Retirement Association under the applicable statutory definitions because:

- a) the administrative activities associated with the office of fire chief do not constitute "other" service for which coverage in PERA is allowed,*
- b) as a volunteer firefighter for the Isanti Fire Department, Mr. Polzin is earning benefits in a relief association, and,*
- c) the compensation he receives from the City of Isanti does not represent salary for public employment activities other than those as a volunteer firefighter.*

Mr. Polzin addressed the PERA Board of Trustees stating the previous fire chief participated in PERA for 22 years because his time was considered administrative time. He further stated that many of the firefighters are doing administrative jobs with the compensation getting to the level where deductions should start to be taken for PERA. He continued that when the previous fire chief retired in 1992, the City of Isanti hired a part-time secretary who also is participating in PERA. This employee works under the same by-laws and rules as Mr. Polzin.

Mr. Polzin stated that he is puzzled as to why his predecessor and his current secretary are eligible for PERA coverage and he is not, even though there has not been any change in the structure of the volunteer department.

Keating answered that the current statutes were enacted in 1989 and prior to that volunteer firefighters who received compensation matching PERA's earnings threshold for membership were required to pay into PERA based on that compensation. The past chief was grandfathered in under that requirement.

Vanek clarified that prior to 1989, double-dipping, as it was called, was allowed. She noted that the 1989 law change was designed to eliminate the potential for double pension coverage because these volunteers were getting credit in a relief association, and additional tax dollars should not be contributed to PERA on the basis of the same service.

In response to a question from Norstrem, Jacobsen explained that the current secretary holds a 25-hour per week position with the city and performs secretarial work. He is considered a part-time city employee. He continued that the previous chief was doing similar work as Mr. Polzin, but he was also the city building inspector, which entitled him to PERA membership. Because it was allowed at the time, he was collecting PERA benefits for the administrative duties of the fire chief.

In response to a question from Marshall, Jacobsen stated that the secretary and former fire chief were in PERA's Coordinated Plan.

In response to a question from Gray, Polzin stated that he does not receive relief association credit for his administrative duties; he receives the same credit as all the other volunteer firefighters, which is \$1,800 per year of service.

Norstrem moved to adopt the staff's recommendation that Randy Polzin remains ineligible under present circumstance for membership in the Public Employee Retirement Association. The motion was seconded by Gray.

Anderson gave the following reasons why Mr. Polzin is not eligible for PERA membership:

- He would not be chief except for the fact that he is a volunteer firefighter. The fire chief's duties are defined as a volunteer firefighter.
- The law change in 1989 was designed to prevent double-dipping.
- Allowing membership in PERA would fundamentally alter the volunteer firefighter structure and re-establish double-dipping statewide.
- Many volunteer firefighters have administrative duties, not just the chief; captains, training officers, information officers, treasurers, etc.

- The city says he is not a regular city employee.
- He presently gets a pension under the city volunteer firefighter's relief association for these same duties.

Norstrem suggested that the Mr. Polzin meet with the organizations that are a part of the volunteer district to try to work out an agreeable solution.

Hulmer called for the vote, which passed unanimously.

3.4 Proposed Contribution Stabilizer Language

Reference was made to a memo dated December 9, 2005 from Mary Most Vanek.

Vanek reminded the Trustees that at last month's Board Meeting they had discussed introducing legislation that would allow the Board to adjust contributions incrementally as actuarial contribution requirements dictated.

Vanek asked the Trustees how many years the Board should wait before monitoring a sufficiency/deficiency situation?

She posed another question. Should the legislative language include saying the Board only wants to adjust rates if the Plan has no unfunded liability or should rates be adjusted incrementally regardless of whether or not the fund is 100 percent funded?

After much discussion the Board of Trustees agreed on the following motion.

Gray moved that the Board resolve to change the evaluation time for actuarial contribution changes from four years to two years and that the language "that the fund has no actuarial accrued liability" be stricken and that the effective date be changed from January 1 to July 1. The motion was seconded by Devich and passed unanimously.

Vanek then asked the Trustees if there is a sufficiency of .5 percent or more, and the Board wants to adjust that, do they want to take it all the way down to zero or do they want to take it only down to .25 percent? Should it be zeroed out in that correction to make it equal to the actuarial required contribution, or should a cushion be left?

Devich moved that whether rates are adjusted upward or downward, that the adjustment always anticipates that there would be a .25 percent sufficiency remaining in the fund. The motion was seconded by Martinson and passed unanimously.

Vanek called the Trustees' attention to Draft 2, which incorporated the League of Minnesota Cities' requests to the Board's proposed rate adjustments. They are requesting that if the additional employer rate increases aren't needed, that there be language that states that the Board can't adjust those rates.

Another request from the staff at the League of Minnesota Cities was if the Board is adjusting rates downward, that first the employer rate gets adjusted until it gets down to a rate equal to the employee rate; then adjustments would be equal between employer and employee thereafter.

After discussion, the Board made the following motion in response to the League's request.

Norstrom moved that the Board direct staff to modify the language to reflect the desire to not impose the additional increases to the employer or to adjust the rates as in the phased-in schedule if they are not necessary. The motion was seconded by Gray and passed unanimously.

3.5 Augmentation Changes

Reference was made to a memo dated December 2, 2004 from Mary Most Vanek.

Vanek told the Trustees that based on the Board's position on the augmentation change at the November Board meeting – that the augmentation rate be equal to inflation up to a maximum of 2.5 percent -- staff discussed that it would not be possible to give projected estimates of a deferred benefit without running the risk of overstating the amount if inflation is less than 2.5 percent in any given year within the deferral period.

Staff recommendation: Modify the November Board position regarding augmentation to state that effective January 1, 2006, augmentation is equal to 2.5 percent compounded annually from the first of the month following termination of service to the first of the month following the month in which the former member reaches age 55.

In response to a question from Heaton, Vanek clarified that those already on deferred status would not be affected by changes in augmentation.

Vanek stated that another change that needed to be made from the November meeting is to continue to use the fixed age of 55.

Devich and Heaton both feel that augmentation needs to be put into the legislative packet with the Post Fund cap and contribution increases.

Norstrem reminded the Trustees that in the private sector, a person quitting service would not earn any additional monies other than what they had contributed at the time of termination.

Hulmer added that Minnesota is the only state that has deferred augmentation.

Arneson believes that augmentation should be modified by changing the number of vesting years to be more than three years and that augmentation should reflect current market conditions and cost of living adjustments.

Gray commented that the Trustees have all agreed that augmentation needs to be “fixed” in some form or another, and he wants the Board to continue to look at it because it is a very expensive benefit.

Heaton would like to look further at future employees who leave under a certain number of years, having part of the employer contribution refunded – like a defined contribution plan – similar to what the Board proposed in 2001.

Norstrem moved to lay this topic over until the January Board meeting and have staff present some alternative languages. The motion was seconded by Gray.

In response to a question from Marshall, Vanek stated that first and foremost, the augmentation piece is not specifically related to the schedule of increases proposed. It is an additional cushion.

Hulmer called for the vote, which passed unanimously.

[Anderson was excused at 11:20 a.m.]

4.0 Informational Items

4.1 Police and Fire Plan and Correctional Plan Contribution Requirements

Reference was made to a memo dated December 2, 2004 from Mary Most Vanek.

Vanek reported that the preliminary results of the actuarial valuations indicate that the P&FF is close to 100 percent funded. She noted that the actuaries are indicating that contributions must be brought up to match normal cost – an increase of over 7 percent total. For the January Board Meeting, Vanek will prepare what the contribution requirement of the P&FF will be if the rate increase is phased in.

Vanek continued that the Correctional Plan contribution rate is between 0.9 and 1.65 percent sufficient. The Plan is not yet 100 percent funded and with an active member population of only 3200 employees, the experience of the plan can fluctuate significantly from year to year. A contribution rate reduction for this plan is not recommended at this time.

4.2 State Board of Investment Quarterly Report

Reference was made to a memo dated December 1, 2004 from Mary Most Vanek and the SBI Quarterly Report for period ending September 30, 2004.

Other Business

Devich will attend a Legislative Sub-Committee on Employee Relations hearing on December 20, at 10:00 a.m. to present the Board's recommendation for the Executive Director's salary.

Vanek called attention to the material on the table for them. One was a sheet on PERA's 2005 Legislative Initiatives, and the other was some of the PowerPoint slides that she uses when talking to legislators on the Post Fund.

Norstrom told the Trustees that the State Board of Investments officially took the position to support the Post Fund legislation

5.0 FYI

Hulmer called the Trustees' attention to the *letters to the editor* article on The future of public DB plans.

6.0 Date of Next Meeting

The next meeting of the PERA Board of Trustees will be held Thursday, January 13, 2005, 9:30 a.m. in room 117 of the State Retirement Systems of Minnesota Building.

7.0 Adjournment

There being no further business to come before the Board, Arneson moved to adjourn the meeting at 11:35 a.m. The motion was seconded by Martinson and passed unanimously.

Mary Most Vanek, Executive Director
Saint Paul, Minnesota

MINUTES

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Meeting of the Board of Trustees

January 13, 2005

The Board of Trustees of the Public Employees Retirement Association met in regular session in the Association offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota, on Thursday, January 13, at 9:30 a.m., notice having been given ten days prior thereto by the Secretary.

The following members were present:

Dawn Hulmer
President

Patricia Anderson/Carla Heyl
Steven Devich
Marcia Farinacci
Walter Gray

Dennis Hegberg
Thomas Marshall
Gary Norstrem

constituting a quorum.

Excused: Ross Arneson; Terri Heaton; Terry Martinson

Staff members present: Mary Most Vanek, Executive Director; Jon Murphy, Assistant Attorney General; Dave DeJonge, Assistant Executive Director; Allen Eldridge, Pension Services; Gary Hovland, Accounting Supervisor and Mary Daly, Executive Assistant.

Others present: Sally Christensen, PEPSA; Fred Babekuhl, St. Paul Firefighters Local 21; Dan Cotroneo, St. Paul Firefighters Local 21; Bonnie Wurst, Mercer Human Resource Consulting; Brian Rice, Spring Lake Park, Blaine, Mounds View Fire Department and Nyle Zikmund, Spring Lake Park, Blaine, Mounds View Fire Department

1.0 Call to Order

Vice President Devich called the meeting to order at 9:35 a.m.

2.0 Consent Calendar

Norstrem moved to approve the consent calendar as presented. The motion was seconded by Marshall and passed unanimously.

3.0 Policy Decision Items

3.1 Proposed Legislation - Spring Lake Park Fire Department

(Reference was made to a memo dated January 4, 2005 from Nyle Zikmund and Brian Rice)

Nyle Zikmund, Fire Chief from Spring Lake Park, Blaine, Mounds View Fire Department, addressed the Board. He explained the legislation these cities will be proposing would take existing employees in the PERA Coordinated Plan and move them into PERA's Police and Fire Fund Plan (P&FF).

Zikmund stated that there are three policy issues addressed in the bill. One, they are defining firefighter. Two, they are putting some benchmarks in place to help define duty disability, which currently don't exist in statute. And three, they want to make sure that there are provisions in the bill that protect the fund.

Zikmund explained that there are seven individuals who work for the City of Blaine, five are fire inspectors, one is an engineering tech and the other is a public works employee. All seven respond to fire calls and fulfill all the other requirements of a firefighter. The five fire inspectors are in the P&FF and the other two are in the Coordinated Plan.

He continued that it is his belief that individuals who respond to every call should be in the P&FF. He explained that in the bill it is their intent to limit to whom a disability benefit would be granted for those individuals who work as a firefighter and in some other capacity for the city. If a firefighter is injured on the job and cannot continue fire-fighting activities, but can continue in the other job, the individual would not be awarded a disability benefit. He noted that the legislation has some model language in it that provides some criteria as to who is a firefighter; criteria that does not exist in the current statute.

[Hulmer arrived at 9:50 a.m.]

Brian Rice, Attorney representing Spring Lake Park-Blaine-Mounds View (SBM) Fire Department, addressed the Board. He stated that they are before the Board to explain the legislation and to ask the Board's support for the bill.

Rice stated that this legislation, allowing these employees to be in the P&FF, will help in the recruitment of firefighters, and it is security for individuals who risk their lives as firefighters.

Marshall stated the he is personally against the proposal. In his opinion, the city workers are not full-time firefighters; they are basically volunteers.

In response to questions, Zikmund stated that the two individuals currently engaged in fire fighting activities were not in the Relief Association because they were in the PERA Coordinated Plan. He noted that firefighter training and responding to calls are part of their job descriptions, despite that fact that they are not receiving credit in any retirement plan other than the PERA Coordinated Plan.

In response to a question from Devich about taking positions on individual bills, Vanek stated that in the past, the Board took the position that they would not take a specific position on individual bills. She explained that she sees this bill as a precedent setting expansion of PERA's current policy for covering public safety individuals in the P&FF, and thus the Board should consider the implications of the precedent.

In response to a question from Norstrem, Zikmund told the Trustees that the seven city employees who respond to calls only do this during their regular 40 hour - 8 to 5 work shift. He explained that this is when they are needed because the department can not get volunteers during the day. They have many volunteers who can respond at night and on weekends.

Fred Babekuhl from St. Paul Fire Fighters Local 21 asked to address the Board. He pointed out that these employees are 40-hour employees in the Coordinated Plan. He noted that they might be working only two to five hours as a firefighter, yet they will be getting credit in the P&FF when they are not working 40 hours as firefighters.

He continued by stating that the other point that the Local wants to make is that this legislation might cause the cities of St. Paul and Minneapolis to lay off firefighters and have their public works employees, as part of their jobs, become firefighters. This could potentially reduce firefighting staff by 100 people and public safety would be jeopardized.

In response to a question from Hulmer, Rice said that the cities have a problem with recruitment of volunteers during the day, and he views this as a question of public safety. The cities are looking for solutions and this legislation addresses this issue. The cities would probably continue with the legislative process even if the PERA Board does not support it.

Devich stated that he understands the situations faced by the cities -- that it is difficult to get volunteer coverage during the day. He feels that the proposed solution is not the best model to change the public pension plans. He could not support this legislation as it is being put together because it would cause an issue with the pension system. There needs

to be some solution, but he does not see this way as the solution.

Gray stated that a couple of things bother him about this legislation. First, the new “full-time firefighters” will be employees of a non-profit organization contracted to the city. Second, to accept this might be setting up precedent for many more cooperative units of government to do something like this. There has to be another solution.

Gray moved that the Board take no position on this special legislation. The motion was seconded by Hegberg.

Devich said that he would not be able to support the motion because of the precedent setting potential of this special legislation. He would feel more comfortable opposing the legislation.

Marshall stated that he feels that the Board has to take a strong position and oppose.

Anderson wants to oppose the legislation because it would be setting a precedent. A lot of cities are having a hard time getting daytime volunteers, but this would change the whole structure of fire departments. She feels that there should be a statewide debate on how to solve this problem.

Gray withdrew his motion.

Hegberg stated that he took the position not to oppose because he feels this needs to be discussed and if the Board opposes the legislation, it might be withdrawn and then there might not be discussion on how to solve this problem.

Devich stated that he would also like to see a discussion on this issue, but he wouldn't use this special legislation as the catalyst for discussion. He would like to see a broad discussion and from that discussion then a solution would be fashioned.

Hulmer called the question, which failed for lack of majority.

Marshall moved to oppose this special legislation. The motion was seconded by Devich and passed by majority with Hegberg voting no and Gray abstaining.

3.2 Application for Police and Fire Plan Duty Related Disability Benefits -
Wayne DeVoe

Reference was made to a fact sheet dated January 3, 2005 from Allen Eldridge and Pat Kappelhoff

Eldridge provided the following facts associated with the application.

Wayne DeVoe filed for a duty-related disability benefit in the Police and Fire Fund in April 2004.

PERA received medical reports from three of his doctors. All three stated that Mr. DeVoe was unable to perform the duties of a firefighter.

The Minnesota Department of Health (MDH) recommended approval of the duty-related disability benefit for Mr. DeVoe.

In August of 2004, PERA approved a non-duty disability benefit for Mr. DeVoe because the first report of injury filed by the employer referenced only the fact that Mr. DeVoe injured his back while stepping off a platform down to the floor. Staff did not feel that this was enough documentation to support a duty-related disability benefit.

In October of 2004, an informal fact finder was held before an administrative law judge (ALJ). During this hearing, Mr. DeVoe provided documentation that he was responding to a fire call at the time he stepped off the platform onto the floor, thus injuring his back. It is the recommendation of the ALJ that the PERA Board approve a duty-related disability for Mr. DeVoe, based upon documentation in this case.

Staff Recommendation: That the PERA Board of Trustees adopt the Administrative Law Judge's Findings of Fact, Conclusions and Recommendation and approve Mr. DeVoe's Application for Duty Related Disability Benefits from the Police and Fire Plan.

Anderson moved to accept staff recommendation and approve Wayne DeVoe's Application for Duty- Related Disability Benefits. The motion was seconded by Gray and pass unanimously.

4.0 Informational Items

4.1 Proposed Legislation - Hennepin County Medical Center (HCMC)

Vanek reported to the Trustees that she consulted with PERA's legal advisor as to the need for the PERA Board to take a position on the proposal of the County Board to make some modifications to the governing structure of the Hennepin County Medical Center. Based on the consultation, the decision was that the Board does not need to take a position on the county's legislation, because what they were proposing did not alter the eligibility of the medical center's employees to participate in PERA.

The way the legislation is drafted, the goal is to remain a public hospital with a public mission and accountability to the county board. They don't want to privatize, they just

want to do some restructuring that will allow them more flexibility in hospital operations. One of their goals is to sever their human resource structure from the civil service system so that they can create their own rewards and recognition and salary structure for health care professionals which has become more difficult for them within the county structure.

4.2 Proposed Legislation - Coordinated Plan Contribution Rate Proposal and Stabilizer

Vanek reported that PERA's legislation was being introduced in the Senate today.

She stated that counties wanted the stabilizer language maintained in the bill because they need to know that the PERA Board would be able to better manage deficiencies and sufficiencies so that there are not big swings.

The League of Minnesota Cities' Board is meeting next week and they will be taking a specific position on the stabilizer part of the bill.

Vanek continued that she met with the AFSCME and SEIU union representatives. They shared with her that they are very concerned about solvency, but are concerned about putting increases on the backs of the employees when there haven't been pay raises. The unions have not taken a position on the legislation yet and are continuing discussions with their members.

Julie Bleyhl from AFSCME Council 5 commented that their Board is meeting next week and they will have a complete discussion on the contribution increase proposal at that time.

Vanek told the Trustees that in her meetings with legislators, there is an understanding that there is a need to do something to take care of the unfunded liabilities. She further informed the Trustees that the three fund directors were asked to present at the Governmental Operations Committee chaired by Representative Kathy Tinglestad.

[Anderson was excused from the meeting at 11:10 a.m.]

4.3 Actuarial Valuations for July 1, 2004

Reference was made to a document called Public Employees Retirement Association of Minnesota 2004 Valuation Results dated January 13, 2005 distributed by Bonnie Wurst from Mercer

Vanek prefaced that the final numbers are in for the Coordinated Plan, but that there is

some discrepancies with the Police and Fire Fund and the Correctional Plan numbers that she hopes to have resolved with PERA's actuarial firm, Seagal, shortly.

Wurst reviewed the 2004 Valuation Results. In the Coordinated Plan for 2004, the unfunded liability has continued to grow so that the Plan is now 77 percent funded. A year ago it was 81 percent funded. In 2004, the contribution deficiency is at 1.6 percent of pay and that equates to 67 million dollars a year, compounded every year. That is the shortfall in the contributions that are being made to the plan. The deficiency a year ago was 1.2 percent of pay.

Wurst continued by talking about the Police and Fire Fund. The funded percentage in 2004 is 101 percent. That means there is just a little bit more on the asset side than the liability side. In the past years, there was a lot more assets than liabilities. What happened in this plan was in 2003 new actuarial assumptions were adopted to recognize improvements in the Plan, more early retirements and more disability retirements than expected and people are living longer. The contributions for P&FF are that the employers are paying 9.3 percent of payroll and employees are paying 6.2 percent, but the required contributions are 22.1 percent of pay. The contributions are deficient by approximately 6.5 percent of pay, a 39 million dollar a year deficiency. For many years, this plan has been living off of the surplus assets. The benefits that are being earned are not really being paid for as they're being earned.

Wurst continued with the Correctional Plan, which was new in 1999. The funding percentage in 2004 is 89 percent. The contributions in this plan are sufficient to pay for the benefits through normal costs and pay for the unfunded liabilities. The contribution sufficiency in 2004 is 1.7 percent of pay.

[Norstrom was excused from the meeting at 11:20 a.m.]

4.4 Other Legislative Discussions

Vanek reported that Senator Pogemiller asked her to get a bill in to get the Police and Fire Fund contribution back up to normal costs. Senator Pogemiller said that legislators are going to be discussing other retirement funds and he wants the P&FF in on the discussions. PERA will be introducing a bill to raise the contribution rates to a total of 7 percent. The total contribution rate being proposed is 22.5 percent, which would match total cost plus expenses. This would take employees up from 6.2 to 9 percent and employers up from 9.3 to 13.5 percent of pay, a 40/60 split.

Vanek stated that the augmentation discussion will be put on the agenda for the February

Board Meeting.

4.5 Post Fund Bill

Vanek reported that the Post Fund Bill was introduced in the Senate (SF70/HF40) January 6, 2005. She said that there is a lot of support for the bill.

5.0 FYI

Hulmer called the Trustees attention to various letters and pension related articles.

6.0 Other Business

The Board Resolution for Trustee Terri Heaton was postponed until the next Board Meeting.

7.0 Date of Next Meeting

The next meeting of the PERA Board of Trustees will be held Thursday, February 10, 2005, 9:30 a.m. in room 117 of the State Retirement Systems of Minnesota Building.

8.0 Adjournment

There being no further business to come before the Board, the meeting adjourned at 11:35 a.m.

Mary Most Vanek, Executive Director
Saint Paul, Minnesota

353.01 Definitions.

Subd. 2a. **Included employees.** (a) Public employees whose salary from one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary is less than \$425 in a subsequent month, the employee retains membership eligibility. Eligible public employees shall participate as members of the association with retirement coverage by the public employees retirement plan or the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies, as a condition of their employment on the first day of employment unless they:

(1) are specifically excluded under subdivision 2b;

(2) do not exercise their option to elect retirement coverage in the association as provided in subdivision 2d, paragraph (a); or

(3) are employees of the governmental subdivisions listed in subdivision 2d, paragraph (b), where the governmental subdivision has not elected to participate as a governmental subdivision covered by the association.

(b) A public employee who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership until the employee terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

Subd. 2b. **Excluded employees.** The following public employees are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a

nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section [69.77](#) that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections [353A.01](#) to [353A.10](#), or any persons covered by section [353.665](#), subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section [354.05](#), subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section [353.86](#), volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section [353.87](#), volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the

Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the Metropolitan Airports Commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

HIST: (254-23) 1931 c 307 s 1; 1933 c 374 s 1; 1937 c 466 s 1; 1941 c 285 s 1; 1945 c 78 s 1; 1947 c 18 s 1; 1949 c 84 s 1; 1951 c 22 s 1-8; 1953 c 78 s 1; 1955 c 815 s 11; 1957 c 815 s 1; 1957 c 935 s 1-5; 1959 c 650 s 1-7,39,43,58; 1961 c 482 s 1; 1961 c 595 s 1; 1961 c 746 s 1; 1963 c 440 s 1; 1963 c 641 s 3-12; 1965 c 104 s 1; 1965 c 880 s 1,2; Ex1967 c 26 s 1; Ex1967 c 37 s 1; 1969 c 940 s 1,2; 1971 c 106 s 1-8; 1971 c 503 s 1,2; 1973 c 123 art 5 s 7; 1973 c 753 s 3-18; 1974 c 229 s 1-8; 1975 c 102 s 1-3; 1975 c 359 s 23; 1976 c 329 s 12-15; 1977 c 347 s 52,53; 1977 c 429 s 19-22,63; 1978 c 471 s 1; 1978 c 720 s 6; 1978 c 796 s 23-26; 1979 c 216 s 1-4,21; 1979 c 303 art 6 s 5; 1980 c 609 art 5 s 20; 1981 c 68 s 16-18; 1981 c 180 s 1; 1981 c 224 s 73-75; 1981 c 298 s 11; 1982 c 404 s 1-4; 1982 c 424 s 64,115,125; 1983 c 286 s 6; 1985 c 261 s 3; 1Sp1985 c 7 s 12; 1986 c 399 art 2 s 9; 1986 c 400 s 9; 1986 c 444; 1986 c 458 s 11; 1Sp1986 c 3 art 2 s 41; 1987 c 49 s 9; 1987 c 258 s 12; 1987 c 259 s 25; 1987 c 284 art 5 s 1,2; 1987 c 291 s 215; 1987 c 296 s 1-3; 1987 c 372 art 1 s 5; 1988 c 709 art 2 s 1; art 5 s 1-7; 1989 c 209 art 2 s 36; 1989 c 246 s 2; 1989 c 319 art 3 s 1-6; art 5 s 1; art 13 s 29; 1989 c 335 art 3 s 5; 1990 c 556 s 7; 1990 c 570 art 8 s 1; art 11 s 1-3; art 12 s 19; 1991 c 269 art 2 s 5; 1991 c 341 s 1-6; 1992 c 432 art 2 s 2-5; 1992 c 598 art 2 s 1; 1993 c 307 art 4 s 1-15; 1993 c 336 art 6 s 5,6; 1994 c 528 art 2 s 1-4; 1994 c 572 s 5; 1997 c 233 art 1 s 37; 1997 c 241 art 2 s 1; 1998 c 254 art 1 s 87; 1999 c 222 art 4 s 4-6; 2000 c 260 s 93; 2000 c 461 art 3 s 7-12; art

4 s 3; art 7 s 1; 1Sp2001 c 10 art 6 s 3,21; art 10 s 2,3; art 11 s 1-12; 2002 c 392 art 2 s 2; art 3 s 1-5; art 7 s 3; art 11 s 52; 1Sp2003 c 12 art 4 s 1,2; art 6 s 5; 2004 c 267 art 1 s 2-4; art 2 s 3; art 3 s 3; art 15 s 1; art 17 s 3; 2005 c 10 art 5 s 1,4; 2005 c 125 art 3 s 1-3; 1Sp2005 c 8 art 1 s 9,10; art 3 s 2; art 4 s 5; art 10 s 38,39

* NOTE: Subdivision 2a was also amended by Laws 2001, First Special Session chapter 10, article 10, section 1, to read as follows:

* "Subd. 2a. **Included employees.** Public employees whose salary from one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary of an employee is less than \$425 in a subsequent month, the employee retains membership eligibility. The following persons are considered public employees:

* (1) employees whose annual salary from one governmental subdivision exceeds a stipulation prepared in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period expected to be of less than a full year's duration. If compensation from one governmental subdivision to an employee under this clause exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee under section [353.27](#), subdivision 12, from the month in which the employee's salary first exceeded \$425;

* (2) employees whose total salary from concurrent nontemporary positions in one governmental subdivision exceeds \$425 in any month;

* (3) elected officers for service to which they were elected by the public-at-large, or persons appointed to fill a vacancy in an elective office, who elect to participate by filing an application for membership, but not for service on a joint or regional board that is a governmental subdivision under subdivision 6, paragraph (a), unless the salary earned for that service exceeds \$425 in any month. The option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office;

* (4) members who are appointed by the governor to be a state department head and elect not to be covered by the Minnesota State Retirement System under section [352.021](#);

* (5) employees of elected officers;

* (6) persons who elect to remain members under section [480.181](#), subdivision 2;

* (7) employees of a school district who receive separate salaries for driving their own buses;

* (8) employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be

included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;

- * (9) employees of a county historical society who are county employees;
 - * (10) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;
 - * (11) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision; and
 - * (12) full-time employees of the Dakota county agricultural society."
- * NOTE: Subdivision 16a, as added by Laws 2000, chapter 461, article 4, section 3, is repealed effective May 16, 2006. Laws 2000, chapter 461, article 4, section 4, paragraph (b), as amended by Laws 2003, First Special Session chapter 12, article 6, section 3; and Laws 2004, chapter 267, article 17, section 7.
- * NOTE: The amendments to subdivisions 2b, 2d, and 6 by Laws 2005, chapter 125, article 3, sections 1 to 3, are effective the day after the Hennepin County Board files a certificate of local approval in compliance with section [645.021](#), subdivision 3. Laws 2005, chapter 125, article 1, section 29, as amended by Laws 2005, First Special Session chapter 7, section 34; and Laws 2005, chapter 125, article 3, section 7.

424A.01 Membership in a volunteer firefighters' relief association.

Subdivision 1. **Minors.** It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department.

Subd. 2. **Status of substitute volunteer firefighters.** No person who is serving as a substitute volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. **Status of nonmember volunteer firefighters.** No person who is serving as a firefighter in a fire department but who is not a member of the applicable firefighters' relief association shall be entitled to any service pension or ancillary benefits from the relief association.

Subd. 3a. Repealed, 1989 c 319 art 10 s 8

Subd. 4. **Exclusion of persons constituting an unwarranted health risk.** The board of trustees of every relief association may exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, would constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section [363A.25](#), it shall be a good and valid defense to a complaint or action brought under chapter 363A that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: (a) the person's medical history; and (b) the report of the physician completing a physical examination of the applicant completed at the expense of the relief association.

Subd. 5. **Fire prevention personnel.** (a) If the fire department is a municipal department and the applicable municipality approves, or if the fire department is an independent nonprofit firefighting corporation and the contracting municipality or municipalities approve, the fire department may employ or otherwise utilize the services of persons as volunteer firefighters to perform fire prevention duties and to supervise fire prevention activities.

(b) Personnel serving in fire prevention positions are eligible to be members of the applicable volunteer firefighter relief association and to qualify for service pension or other benefit coverage of the relief association on the same basis as fire department personnel who perform fire suppression duties.

(c) Personnel serving in fire prevention positions also are eligible to receive any other benefits under the applicable law or practice for services on the same basis as personnel employed to perform fire suppression duties.

HIST: 1979 c 201 s 11; 1981 c 224 s 274; 1982 c 460 s 7; 1983 c 219 s 5; 1989 c 319 art 10 s 2; 1996 c 438 art 8 s 3

424A.02 Volunteer firefighters; service pensions.

Subd. 9. **Limitation on ancillary benefits.** Any 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 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 relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated using the service pension amount specified in the bylaws of the relief association and the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated (i) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (ii) without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for 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.

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

Pension Reporting Entities
2005 Reporting Year

597	Defined Benefit - Lump Sum	323 Over \$200,000	274 Under \$200,000
89	Defined Contribution	38 Over \$200,000	51 Under \$200,000
21	Defined Benefit - Monthly/Lump Sum	21 Over \$200,000	0 Under \$200,000
5	Defined Benefit - Monthly	5 Over \$200,000	0 Under \$200,000
<hr/> 712	Volunteer Fire Relief Associations	387 Over \$200,000	325 Under \$200,000

State Fire Aid Certification History

Reporting Year	1st Round	2nd Round	3rd Round	4th Round	Total	Forfeits
2004	498	200	*		698	
2003	470	232	57	5	764	3 **
2002	649	102	8	7	766	0
2001	641	116	10	2	769	0
2000	491	241	32	0	764	0
1999	626	106	33	1	766	0
1998	491	189	81	3	764	0
1997	614	63	59	26	762	0
1996	606	0	0	0	606	0
1995	589	0	0	0	589	0
1994	566	128	0	0	694	0
1993	333	0	0	0	333	7

* Only 18 with pending issues and 46 not fully filed by 2nd deadline.

** Arrowhead, Maplevew and Shelly did not file by the November 30 Statutory deadline that requires forfeiture of state fire aid.

State Auditor's Office - Pension Division
Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>	Number of Files: 200
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Entities Affiliated with a Relief Association

54	0100	ADA CITY OF	ADA FIRE RELIEF ASSOCIATION
86	0100	ALBERTVILLE CITY OF	ALBERTVILLE FIRE RELIEF ASSOCIATION
13	5000	ALMELUND V.F.D.	ALMELUND FIRE RELIEF ASSOCIATION
2	0300	ANDOVER CITY OF	ANDOVER FIRE RELIEF ASSOCIATION
76	0100	APPLETON CITY OF	APPLETON FIRE RELIEF ASSOCIATION
58	0100	ASKOV CITY OF	ASKOV FIRE RELIEF ASSOCIATION
34	0100	ATWATER CITY OF	ATWATER FIRE RELIEF ASSOCIATION
3	0100	AUDUBON CITY OF	AUDUBON FIRE RELIEF ASSOCIATION
50	0200	AUSTIN CITY OF	AUSTIN FIRE RELIEF ASSOCIATION
11	0200	BACKUS CITY OF	BACKUS FIRE RELIEF ASSOCIATION
68	0100	BADGER CITY OF	BADGER FIRE RELIEF ASSOCIATION
9	0300	BARNUM CITY OF	BARNUM FIRE RELIEF ASSOCIATION
26	0200	BARRETT CITY OF	BARRETT FIRE RELIEF ASSOCIATION
71	0100	BECKER CITY OF	BECKER FIRE RELIEF ASSOCIATION
73	0300	BELGRADE CITY OF	BELGRADE FIRE RELIEF ASSOCIATION
4	0100	BEMIDJI CITY OF	BEMIDJI FIRE RELIEF ASSOCIATION
69	0900	BIWABIK CITY OF	BIWABIK CITY FIRE RELIEF ASSOCIATION
34	0200	BLOMKEST CITY OF	BLOMKEST FIRE RELIEF ASSOCIATION
31	0600	BOVEY CITY OF	BOVEY FIRE RELIEF ASSOCIATION
21	0200	BRANDON CITY OF	BRANDON FIRE RELIEF ASSOCIATION
84	0100	BRECKENRIDGE CITY OF	BRECKENRIDGE FIRE RELIEF ASSOCIATION
69	0013	BREVATOR TOWN OF	BREVATOR FIRE RELIEF ASSOCIATION
53	0300	BREWSTER CITY OF	BREWSTER FIRE RELIEF ASSOCIATION
58	0400	BROOK PARK CITY OF	BROOK PARK FIRE RELIEF ASSOCIATION
77	0200	BROWERVILLE CITY OF	BROWERVILLE FIRE RELIEF ASSOCIATION
65	0200	BUFFALO LAKE CITY OF	BUFFALO LAKE FIRE RELIEF ASSOCIATION
69	1300	BUHL CITY OF	BUHL FIRE RELIEF ASSOCIATION
55	0100	BYRON CITY OF	BYRON FIRE RELIEF ASSOCIATION
28	0200	CALEDONIA CITY OF	CALEDONIA FIRE RELIEF ASSOCIATION
87	0200	CANBY CITY OF	CANBY FIRE RELIEF ASSOCIATION
21	0300	CARLOS CITY OF	CARLOS FIRE RELIEF ASSOCIATION
3	0005	CARSONVILLE V.F.D., INC.	CARSONVILLE FIRE RELIEF ASSOCIATION
13	0200	CENTER CITY CITY OF	CENTER CITY FIRE RELIEF ASSOCIATION
69	1800	CHISHOLM CITY OF	CHISHOLM FIRE RELIEF ASSOCIATION

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>
75	0200	CHOKIO CITY OF	CHOKIO FIRE RELIEF ASSOCIATION
20	0100	CLAREMONT CITY OF	CLAREMONT FIRE RELIEF ASSOCIATION
86	0400	CLEARWATER CITY OF	CLEARWATER FIRE RELIEF ASSOCIATION
69	9100	CLIFTON V.F.D., INC.	CLIFTON FIRE RELIEF ASSOCIATION
60	0300	CLIMAX CITY OF	CLIMAX FIRE RELIEF ASSOCIATION
69	0017	CLINTON TOWN OF	CLINTON FIRE RELIEF ASSOCIATION [ST LOUIS]
10	0500	COLOGNE CITY OF	COLOGNE FIRE RELIEF ASSOCIATION
69	0018	COLVIN TOWN OF	COLVIN FIRE RELIEF ASSOCIATION
69	8900	COTTON V.F.D., INC.	COTTON FIRE RELIEF ASSOCIATION
42	0400	COTTONWOOD CITY OF	COTTONWOOD FIRE RELIEF ASSOCIATION
11	0012	CROOKED LAKE TOWN OF	CROOKED LAKE FIRE RELIEF ASSOCIATION
18	0300	CROSBY CITY OF	CROSBY FIRE RELIEF ASSOCIATION
18	0500	CUYUNA CITY OF	CUYUNA FIRE RELIEF ASSOCIATION
61	0100	CYRUS CITY OF	CYRUS FIRE RELIEF ASSOCIATION
56	0700	DALTON CITY OF	DALTON FIRE RELIEF ASSOCIATION
27	6600	DAYTON CITY OF	DAYTON FIRE RELIEF ASSOCIATION
46	0200	DUNNELL CITY OF	DUNNELL FIRE RELIEF ASSOCIATION
7	0300	EAGLE LAKE CITY OF	EAGLE LAKE FIRE RELIEF ASSOCIATION
22	0400	EASTON CITY OF	EASTON FIRE RELIEF ASSOCIATION
59	0100	EDGERTON CITY OF	EDGERTON FIRE RELIEF ASSOCIATION
28	0300	EITZEN CITY OF	EITZEN FIRE RELIEF ASSOCIATION
79	0100	ELGIN CITY OF	ELGIN FIRE RELIEF ASSOCIATION
40	6800	ELYSIAN CITY OF	ELYSIAN FIRE RELIEF ASSOCIATION
18	2400	EMILY CITY OF	EMILY FIRE RELIEF ASSOCIATION
24	0600	EMMONS CITY OF	EMMONS FIRE RELIEF ASSOCIATION
27	0900	EXCELSIOR CITY OF	EXCELSIOR FIRE RELIEF ASSOCIATION
69	0026	FAYAL TOWN OF	FAYAL FIRE RELIEF ASSOCIATION
11	0700	FEDERAL DAM CITY OF	FEDERAL DAM FIRE RELIEF ASSOCIATION
18	0700	FIFTY LAKES CITY OF	FIFTY LAKES FIRE RELIEF ASSOCIATION
38	5000	FINLAND F.D.	FINLAND FIRE RELIEF ASSOCIATION
69	2900	FLOODWOOD CITY OF	FLOODWOOD FIRE RELIEF ASSOCIATION
60	1100	FOSSTON CITY OF	FOSSTON FIRE RELIEF ASSOCIATION
3	0400	FRAZEE CITY OF	FRAZEE FIRE RELIEF ASSOCIATION
69	7600	FREDENBERG V.F.D., INC.	FREDENBERG FIRE RELIEF ASSOCIATION
18	1000	GARRISON CITY OF	GARRISON FIRE RELIEF ASSOCIATION
24	0900	GLENVILLE CITY OF	GLENVILLE FIRE RELIEF ASSOCIATION
61	0300	GLENWOOD CITY OF	GLENWOOD FIRE RELIEF ASSOCIATION

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>
15	0500	GONVICK CITY OF	GONVICK FIRE RELIEF ASSOCIATION
69	7800	GRAND LAKE V.F.D., INC.	GRAND LAKE FIRE RELIEF ASSOCIATION
68	0200	GREENBUSH CITY OF	GREENBUSH FIRE RELIEF ASSOCIATION
45	0500	GRYGLA CITY OF	GRYGLA FIRE RELIEF ASSOCIATION
35	0300	HALLOCK CITY OF	HALLOCK FIRE RELIEF ASSOCIATION
2	1700	HAM LAKE CITY OF	HAM LAKE FIRE RELIEF ASSOCIATION
8	0500	HANSKA CITY OF	HANSKA FIRE RELIEF ASSOCIATION
13	0400	HARRIS CITY OF	HARRIS FIRE RELIEF ASSOCIATION
24	1100	HARTLAND CITY OF	HARTLAND FIRE RELIEF ASSOCIATION
24	1200	HAYWARD CITY OF	HAYWARD FIRE RELIEF ASSOCIATION
56	1400	HENNING CITY OF	HENNING FIRE RELIEF ASSOCIATION
26	0500	HERMAN CITY OF	HERMAN FIRE RELIEF ASSOCIATION
69	3800	HIBBING CITY OF	HIBBING FIRE RELIEF ASSOCIATION
1	0700	HILL CITY CITY OF	HILL CITY FIRE RELIEF ASSOCIATION
28	0500	HOKAH CITY OF	HOKAH FIRE RELIEF ASSOCIATION
59	0400	HOLLAND CITY OF	HOLLAND FIRE RELIEF ASSOCIATION
16	8000	HOVLAND AREA V.F.D., INC.	HOVLAND AREA FIRE RELIEF ASSOCIATION
86	1000	HOWARD LAKE CITY OF	HOWARD LAKE FIRE RELIEF ASSOCIATION
69	7200	HOYT LAKES CITY OF	HOYT LAKES FIRE RELIEF ASSOCIATION
41	0300	IVANHOE CITY OF	IVANHOE FIRE RELIEF ASSOCIATION
32	0300	JACKSON CITY OF	JACKSON FIRE RELIEF ASSOCIATION
1	5000	JACOBSON COMMUNITY F.D.	JACOBSON FIRE RELIEF ASSOCIATION
81	0200	JANESVILLE CITY OF	JANESVILLE FIRE RELIEF ASSOCIATION
17	0300	JEFFERS CITY OF	JEFFERS FIRE RELIEF ASSOCIATION
20	0400	KASSON CITY OF	KASSON FIRE RELIEF ASSOCIATION
25	0600	KENYON CITY OF	KENYON FIRE RELIEF ASSOCIATION
9	1000	KETTLE RIVER CITY OF	KETTLE RIVER FIRE RELIEF ASSOCIATION
41	0400	LAKE BENTON CITY OF	LAKE BENTON FIRE RELIEF ASSOCIATION
29	5000	LAKE GEORGE V.F.D., INC.	LAKE GEORGE FIRE RELIEF ASSOCIATION
3	0500	LAKE PARK CITY OF	LAKE PARK FIRE RELIEF ASSOCIATION
32	0400	LAKEFIELD CITY OF	LAKEFIELD FIRE RELIEF ASSOCIATION
83	0300	LA SALLE CITY OF	LaSalle Fire Relief Association
40	0600	LE CENTER CITY OF	LE CENTER FIRE RELIEF ASSOCIATION
21	0011	LEAF VALLEY TOWN OF	LEAF VALLEY FIRE RELIEF ASSOCIATION
47	0800	LITCHFIELD CITY OF	LITCHFIELD FIRE RELIEF ASSOCIATION
49	1000	LITTLE FALLS CITY OF	LITTLE FALLS FIRE RELIEF ASSOCIATION
36	1300	LITTLEFORK CITY OF	LITTLEFORK FIRE RELIEF ASSOCIATION

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>
24	5000	LONDON CO-OP COMM. F.D.	LONDON FIRE RELIEF ASSOCIATION
66	0400	LONSDALE CITY OF	LONSDALE FIRE RELIEF ASSOCIATION
27	9600	LORETTO V.F.D.	LORETTO FIRE RELIEF ASSOCIATION
7	0800	MADISON LAKE CITY OF	MADISON LAKE FIRE RELIEF ASSOCIATION
69	9500	MAKINEN V.F.D.	MAKINEN FIRE RELIEF ASSOCIATION
7	1000	MAPLETON CITY OF	MAPLETON FIRE RELIEF ASSOCIATION
82	1100	MARINE-ON-ST CROIX CITY OF	MARINE-ON-ST CROIX FIRE RELIEF ASSOCIATION
79	0500	MAZEPPA CITY OF	MAZEPPA FIRE RELIEF ASSOCIATION
1	1300	MC GRATH CITY OF	MC GRATH FIRE RELIEF ASSOCIATION
69	4900	MC KINLEY CITY OF	MC KINLEY FIRE RELIEF ASSOCIATION
27	3500	MEDICINE LAKE CITY OF	MEDICINE LAKE FIRE RELIEF ASSOCIATION
19	1500	MIESVILLE CITY OF	MIESVILLE FIRE RELIEF ASSOCIATION
12	0500	MILAN CITY OF	MILAN FIRE RELIEF ASSOCIATION
21	1100	MILTONA CITY OF	MILTONA FIRE RELIEF ASSOCIATION
18	0020	MISSION TOWN OF	MISSION FIRE RELIEF ASSOCIATION
40	0800	MONTGOMERY CITY OF	MONTGOMERY FIRE RELIEF ASSOCIATION
86	1300	MONTROSE CITY OF	MONTROSE FIRE RELIEF ASSOCIATION
9	1200	MOOSE LAKE CITY OF	MOOSE LAKE FIRE RELIEF ASSOCIATION
31	2600	NASHWAUK CITY OF	NASHWAUK FIRE RELIEF ASSOCIATION
81	0400	NEW RICHLAND CITY OF	NEW RICHLAND FIRE RELIEF ASSOCIATION
18	1600	NISSWA CITY OF	NISSWA FIRE RELIEF ASSOCIATION
52	0500	NORTH MANKATO CITY OF	NORTH MANKATO FIRE RELIEF ASSOCIATION
69	0076	NORTH STAR TOWN OF	NORTH STAR TOWNSHIP FIRE RELIEF ASSOCIATION
46	0700	NORTHROP CITY OF	NORTHROP FIRE RELIEF ASSOCIATION
10	0900	NORWOOD YOUNG AMERICA	NORWOOD YOUNG AMERICA FIRE RELIEF ASSOCIATION
82	5200	OAKDALE V.F.D., INC.	OAKDALE FIRE RELIEF ASSOCIATION
6	5000	ODESSA FARM F.D.	ODESSA FIRE RELIEF ASSOCIATION
32	0500	OKABENA CITY OF	OKABENA FIRE RELIEF ASSOCIATION
63	0400	OKLEE CITY OF	OKLEE FIRE RELIEF ASSOCIATION
69	5600	ORR CITY OF	ORR FIRE RELIEF ASSOCIATION
6	0800	ORTONVILLE CITY OF	ORTONVILLE FIRE RELIEF ASSOCIATION
27	2300	OSSEO CITY OF	OSSEO FIRE RELIEF ASSOCIATION
56	1700	OTTERTAIL CITY OF	OTTERTAIL FIRE RELIEF ASSOCIATION
69	8500	PALO V.F.D. (Town of White)	PALO FIRE RELIEF ASSOCIATION
29	1300	PARK RAPIDS CITY OF	PARK RAPIDS FIRE RELIEF ASSOCIATION
56	1800	PARKERS PRAIRIE CITY OF	PARKERS PRAIRIE FIRE RELIEF ASSOCIATION
56	1900	PELICAN RAPIDS CITY OF	PELICAN RAPIDS FIRE RELIEF ASSOCIATION

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>
69	0075	PEQUAYWAN LAKE CITY OF	PEQUAYWAN FIRE RELIEF ASSOCIATION
56	2000	PERHAM CITY OF	PERHAM FIRE RELIEF ASSOCIATION
69	8600	PIKE-SANDY-BRITT F.D., INC.	PIKE-SANDY-BRITT FIRE RELIEF ASSOCIATION
11	1600	PINE RIVER CITY OF	PINE RIVER FIRE RELIEF ASSOCIATION
43	0600	PLATO CITY OF	PLATO FIRE RELIEF ASSOCIATION
27	4700	PLYMOUTH CITY OF	PLYMOUTH FIRE RELIEF ASSOCIATION
87	0800	PORTER CITY OF	PORTER FIRE RELIEF ASSOCIATION
70	0800	PRIOR LAKE CITY OF	PRIOR LAKE FIRE RELIEF ASSOCIATION
25	0800	RED WING CITY OF	RED WING FIRE RELIEF ASSOCIATION
69	0061	RICE LAKE TOWN OF	RICE LAKE FIRE RELIEF ASSOCIATION
73	2100	RICHMOND CITY OF	RICHMOND FIRE RELIEF ASSOCIATION
85	0900	ROLLINGSTONE CITY OF	ROLLINGSTONE FIRE RELIEF ASSOCIATION
53	1000	ROUND LAKE CITY OF	ROUND LAKE FIRE RELIEF ASSOCIATION
13	0700	RUSH CITY CITY OF	RUSH CITY FIRE RELIEF ASSOCIATION
42	1200	RUSSELL CITY OF	RUSSELL FIRE RELIEF ASSOCIATION
65	1000	SACRED HEART CITY OF	SACRED HEART FIRE RELIEF ASSOCIATION
86	1600	SAINT MICHAEL CITY OF	SAINT MICHAEL FIRE RELIEF ASSOCIATION
73	2900	SAINT STEPHEN CITY OF	SAINT STEPHEN FIRE RELIEF ASSOCIATION
58	2100	SANDSTONE CITY OF	SANDSTONE FIRE RELIEF ASSOCIATION
5	0900	SAUK RAPIDS CITY OF	SAUK RAPIDS FIRE RELIEF ASSOCIATION
9	1500	SCANLON CITY OF	SCANLON FIRE RELIEF ASSOCIATION
80	0400	SEBEKA CITY OF	SEBEKA FIRE RELIEF ASSOCIATION
15	0800	SHEVLIN CITY OF	SHEVLIN FIRE RELIEF ASSOCIATION
69	7400	SILICA V.F.D., INC.	SILICA FIRE RELIEF ASSOCIATION
38	1000	SILVER BAY, CITY OF	SILVER BAY FIRE RELIEF ASSOCIATION
51	1000	SLAYTON CITY OF	SLAYTON FIRE RELIEF ASSOCIATION
8	0900	SPRINGFIELD CITY OF	SPRINGFIELD FIRE RELIEF ASSOCIATION
31	3200	SQUAW LAKE CITY OF	SQUAW LAKE FIRE RELIEF ASSOCIATION
27	2900	SAINT BONIFACIUS CITY OF	ST. BONIFACIUS FIRE RELIEF ASSOCIATION
73	2700	SAINT MARTIN CITY OF	ST. MARTIN FIRE RELIEF ASSOCIATION
43	0900	STEWART CITY OF	STEWART FIRE RELIEF ASSOCIATION
34	1300	SUNBURG CITY OF	SUNBURG FIRE RELIEF ASSOCIATION
42	1300	TAUNTON CITY OF	TAUNTON FIRE RELIEF ASSOCIATION
9	0023	THOMSON TOWN OF	THOMSON FIRE RELIEF ASSOCIATION
69	8100	TOIVOLA V.F.D., INC.	TOIVOLA FIRE RELIEF ASSOCIATION
46	1200	TRUMAN CITY OF	TRUMAN FIRE RELIEF ASSOCIATION
24	1800	TWIN LAKES CITY OF (FREEBORN)	TWIN LAKES FIRE RELIEF ASSOCIATION (CITY)

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

<u>County</u>	<u>Fire Cod</u>	<u>Entity</u>	<u>Relief</u>
54	1100	TWIN VALLEY CITY OF	TWIN VALLEY FIRE RELIEF ASSOCIATION
41	0500	TYLER CITY OF	TYLER FIRE RELIEF ASSOCIATION
49	1700	UPSALA CITY OF	UPSALA FIRE RELIEF ASSOCIATION
80	9500	WADENA CITY OF	WADENA FIRE RELIEF ASSOCIATION
81	0700	WALDORF CITY OF	WALDORF FIRE RELIEF ASSOCIATION
64	1600	WANDA CITY OF	WANDA FIRE RELIEF ASSOCIATION
40	1100	WATERVILLE CITY OF	WATERVILLE FIRE RELIEF ASSOCIATION
44	0500	WAUBUN CITY OF	WAUBUN FIRE RELIEF ASSOCIATION
26	0800	WENDELL CITY OF	WENDELL FIRE RELIEF ASSOCIATION
20	0600	WEST CONCORD CITY OF	WEST CONCORD FIRE RELIEF ASSOCIATION
27	4200	WEST METRO	WEST METRO FIRE RELIEF ASSOCIATION
60	2200	WINGER CITY OF	WINGER FIRE RELIEF ASSOCIATION
22	1300	WINNEBAGO CITY OF	WINNEBAGO FIRE RELIEF ASSOCIATION
3	0700	WOLF LAKE CITY OF	WOLF LAKE FIRE RELIEF ASSOCIATION
53	1300	WORTHINGTON CITY OF	WORTHINGTON FIRE RELIEF ASSOCIATION
9	1800	WRIGHT CITY OF	WRIGHT FIRE RELIEF ASSOCIATION

State Auditor's Office - Additional Files to be Certified for State Fire Aid as of November 1, 2005

County Fire Cod Entity Relief

Entities Not Affiliated with a Relief Association

54	0200	BORUP CITY OF	BORUP CITY OF
25	6900	DENNISON CITY OF	DENNISON CITY OF

Late Filing Fire Relief Associations

The following 46 relief associations did not fully file their 2004 reporting forms with the State Auditor's Office before the October 31, 2005 deadline for the second round of state fire aid payments. These relief associations must fully file by November 30, 2005 to avoid forfeiting their 2005 state fire aid and possibly losing eligibility for future aid payments until the forms are submitted. The next round of state fire aid payments is March 1, 2006.

March 31

Bagley, Bethel, Bigelow, Brownsville, Clarks Grove, Dakota, Embarrass, Goodland, Green Isle, Heron Lake, Lakeport, Lucan, Lyle, New Munich, Newfolden, Northland, Onamia, Sedan, Shelly, Storden, Villard, Walters, Warba and Woodstock.

June 30

Annandale, Braham, Buffalo, Calumet, Cleveland, Cook, Eveleth, Glyndon, Granite Falls, Keewatin, Long Lake, Mc Gregor, New Market, Princeton, Randolph, Saint Clair, Silver Lake, Taylors Falls, Victoria, Wanamingo, Waverly and Wyoming.

Volunteer Fire Relief Association Working Group

State Auditor's Office
Wednesday, January 11, 2006
11 a.m. to 1 p.m.

Members Present

Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnomen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, State Auditor Patricia Anderson and White Bear Lake Finance Director Don Rambow.

Member Excused

Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans) and Northfield Fire Relief Association Secretary Tom Nelson.

Others Present

PERA Executive Director Mary Vanek, Deputy Director of the Legislative Commission on Pensions and Retirement Edward Burek, General/Legal Counsel Carla Heyl, Assistant Legal Counsel David Kenney, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen and Brian Martenson.

Rotating Chair Kern called the meeting to order and asked everyone to introduce themselves.

Approval of Working Group Minutes

The Working Group members reviewed the revised December 1, 2005 minutes and draft December 15, 2005 minutes that had been provided before the meeting. Rambow moved with a second from Dietz to approve the December 1, 2005 meeting minutes. The motion was approved unanimously. Rambow also moved to approve the December 15, 2005 minutes. Finn seconded the motion that was approved without dissent.

Relief Association Membership and Coverage Issues

Martin referenced background material in the agenda packet regarding relief association membership and coverage issues that he had provided at Auditor Anderson's request. He said duplicate coverage in a volunteer fire relief association and the Public Employees Police and Fire Fund for fire service with the same department has arisen over the years in the legislative branch. He also said the term volunteer fire fighter doesn't have a particular meaning in Minnesota Statutes except that there are exclusions for minors, substitute firefighters and those with unwarranted health risks.

Vanek shared some history on the subject from PERA's perspective. She said the dual coverage issue which goes back to the late 1970s was somewhat resolved in 1989 when volunteer firefighters five course covered by was prospectively excluded from PERA coverage. Previously those whose salary exceeded the PERA monthly threshold for membership had to enroll in the PERA Coordinated or Police and Fire plans. Vanek said PERA staff struggle to determine the pension plan status of volunteer firefighters with split duties or the same duties for volunteer and paid departments amid overtime regulations and fulltime complications.

Martin said an additional concern is that Chapter 424A definitions does not require fire suppression or prevention for relief association membership. He said he is aware of persons retained to do recordkeeping and considered to be volunteer firefighters who were ineligible for benefits at the time of death or retirement.

Vanek said she understands that cities have recruitment problems for daytime hours but the PERA Board is uncomfortable opening up PERA Police & Fire Fund coverage for the city employees who respond to these fire calls. She said if the Working Group leads the way with a volunteer firefighter definition PERA will do likewise for its side of the dual coverage situation. For instance, she noted that firefighters cannot get coverage if they start as fire marshals because they must be involved in fire suppression and prevention services. Yet, if they start in fire suppression and move up to a fire marshal position their city can ask that they stay in the Police and Fire Fund.

Zikmund said the definition of volunteer firefighter should be a broad front-door statement that requires firefighters to engage in fire suppression and fire prevention, meet locally adopted minimum service requirements and attend fires and drills. He cautioned that some fire groups may prefer the flexibility of no definition to a clear statutory definition.

Kern recommended that the proposed language state and local requirements as outlined in the relief association bylaws. "Firefighter certification was discussed as another possible criterion because 90 percent of all Minnesota firefighters are certified in the Firefighter 1 and 2 categories, according to Hansen who is a member of the Minnesota Certification Board. Jaeger said not all firefighters are certified in northern Minnesota.

Martin asked whether to include volunteer emergency services personnel who are already covered by a statewide longevity benefit plan in the definition of a volunteer firefighter.

Volunteer Fire Relief Association Working Group

December 1, 2005

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Dietz said some fire fighters are cross-trained in both areas. Delano under 25 percent for fire suppression and 75 percent medical. What does it matter if cross-trained to do both including fire prevention? Finn said professional firefighters are left out of this all together. Had said early on...

Zikmund said almost constant availability to respond call you are able to respond. If always gone can't be a volunteer firefighter in our city. There are only 100 fires a year but they' happen when you don't want them to occur. Don't think ... see lawsuits, the Roseville lawsuit exploding and don't want your issues piled in don't like lawsuits so if legislature to add clarity let's do that, suburbs need more fulltime because administration because bigger. Don't want to do all the time as a fir chief. Here is some demarcation a person is fire eligible.

If there is some way to clarify here is your salary. Richfield Apple Valley. If state has gen opposed DD same have excluded volunteer and those that do some allow it.

Bylaws aren't definition because going to PERA pol issue, going issues even if can't decide anything today it can merit discussion. This year or next year League here Don here from the PERA Board if don't deal with it this year or next year.

Heyl said you want your bill to go through this year but gets to daytime issues. Why should we pass specific legislation to you.

Zikmund if can address volunteer piece that is starting point or another piece of the puzzle. Two phenomena: 1) can't get daytime volunteer national phenomenon, and emergency calls going down resulting in less calls and less fire calls. Last seven years fastest growing city (47 percent in market value and 18 percent growth in population) yet our call volume went up only 2 percent and our fire service calls went down. Commercial industry fires have gone down due to education and sprinkler systems.

Zikmund asked if come up with definition for volunteers and have the flip side in PERA law, how much lead time should be provided for relief associations to get bylaws containing their definitions in place so need a later effective date.

Martin said some volunteer firefighters will find themselves in or out of the plan based on the definition. He asked whether their service earned up until that time should be vested.

Dietz said Maplewood volunteer firefighters who went fulltime must leave the relief association. If they weren't vested, they lose their service credit but if they come back to the volunteer department, their fulltime period can be a leave of absence.

Auditor Anderson suggested grandfathering current volunteer firefighters into the definition. Rambow said six years and follow partial vesting. No way everone will accept 10 years. Full six year versus fraction of six years.

Zikmund said grandfather in and give full credit for time. Dietz disagreed saying give six years but at 44 percent. Auditor Anderson asked why not grandfather anyone in or defer. Martin said it would mean letting 700 local plans decide for PERA purposes. Vanek said it's date driven because once the date is established at least you know when you're in or not in.

Roberts asked if outstate area would be impacted if emergency services workers were excluded.

Hansen left the meeting for a previous commitment.

Kern asked Martin to draft a volunteer firefighter definition for the Working Group to review at the next meeting.

The group broke for lunch.

Reporting Form Filing Status

The members discussed whether a penalty is warranted for relief associations that file late or not at all with the State Auditor's Office. Under current law, relief associations that do not file their required reporting forms by November 30 must forfeit their state fire aid to the state's General Fund. There is no fine for those that file after their March 31 or June 30 submission deadline. Zikmund suggested \$1000 for each 60 days late saying just a dollar amount or a percentage could overpenalize some relief associations.

Heyl said only four relief associations forfeited their state fire aid for the 2004 Reporting Year by missing the November 30 deadline. She said timely filing should improve with the upcoming introduction of FRPAS, the State Auditor's new Fire Relief Pension Accounting System, and greater cooperation from cities and relief associations.

It was noted that seven relief associations had forfeited some or all of their state fire aid to the State of Minnesota general fund after missing their filing deadline with the Department of Revenue.

Disability Benefit Status Reversals

The members discussed how relief associations should handle cases in which disabled firefighters are able to return to fire service following medical advances or health improvements. Although this issue was not contemplated when the statutes were drafted in the late 1970s. At least one city seems interested in having a previously disabled firefighter return based on their investment in firefighter training.

Martin said membership in a volunteer fire department and membership in a volunteer relief association are different because nothing requires all firefighters to be in the volunteer pension plan. He said the statute that requires the repayment of a service pension to rejoin a relief association was based on a fire chief who wanted to retire but still wanted to be fire chief. The provision was intended to be severe and punitive, he said, offering to redraft it to retain the current language and add a new paragraph to cover disabled firefighters who return to fire service.

Finn said she would like to learn what the League's Human Resources Department thinks about encouraging disabled firefighters to come back to fire service. Deitz said he has seen disabled firefighters to serve in other communities. Zikmund said he would like language to permit disabled firefighters to come back if their cities and relief associations are willing to take them back.

Kern then asked Martin to draft language for review at the next Working Group meeting.

Other Business

Martin distributed three documents for the members to review before the upcoming meeting. He said that he has been trying to keep up with the drafting of the Working Group's proposals based on the Pension Commission's expedited schedule this session. The documents include draft language on the volunteer fire relief association report, minimum fire department equipment recommendations and death benefits.

Zikmund said Rep. Tom Rukavina is interested in increasing the amount of the Supplemental Benefit Reimbursement for a surviving spouse of a deferred member. Zickmund also asked for the upcoming agenda to include increasing the dollar threshold or eliminating the audit requirement for small relief association pension plans. Other possible agenda items include: Dues for Professional Associations from the Special Fund, Rollovers for Surviving Spouses and Portability.

Zikmund said the Pension Commission Chair Larry Pogemiller hopes to finish work in the next six weeks before the official March 1 start of the 2006 legislative session. He also offered to help seek legislative authors for the Working Group proposal.

Kern adjourned the meeting just after 1 p.m.