

Minnesota Volunteer Fire Relief Association Working Group Meeting

Office of the State Auditor
Thursday, October 20, 2016
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft October 11, 2016 Meeting Minutes
- III. Overview of Fire State Aid**
Presentation by Kristie Strum, State Program Administrator, Senior, Minnesota Department of Revenue
- IV. Review of Draft Language Updating Supplemental Benefit Program for Volunteer Emergency Medical Personnel**
Exhibit B.
- V. Review of Draft Language Updating the Definitions of Municipality and Fire Department**
Exhibit C.
- VI. Review of Draft Language Making a Technical Correction to the Return to Service Statute**
Exhibit D.
- VII. Other Business**
- VIII. Next Meeting**
Wednesday, November 9, 2016
11 a.m. to 1 p.m.
Office of the State Auditor
- IX. Adjournment**

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Tuesday, October 11, 2016

11 a.m. to 1 p.m.

Members Present

Luke Fischer, City of Plymouth Administrative Services Director

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)

Dave Jaeger, Mahnomon Fire Relief Association Vice President (defined benefit lump sum plans)

Ron Johnson, Minnesota State Fire Department Association Representative (defined contribution plans)

Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)

Philip Jones, Eden Prairie Fire Relief Association Trustee (defined benefit monthly/lump sum plans)

Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)

Rebecca Otto, State Auditor

Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)

Members Excused

Steve Donney, City of Harmony Mayor

Nealon Thompson, Minnesota State Fire Chiefs Association Representative (defined benefit monthly/lump sum plans)

Others Present

Ramona Advani, Deputy State Auditor and General Counsel

David Andrews, Public Employees Retirement Association Representative

Rachel Barth, Legislative Commission on Pension and Retirement Deputy Director

Bill Batchelder, Bemidji Fire Relief Association Representative

Mary Chamberlain, Abdo, Eick & Meyers, LLP Representative

Nicholas Enger, Office of the State Auditor Pension Analyst

Candace Gislason, Van Iwaarden Associates Representative

Rose Hennessy Allen, Office of the State Auditor Pension Director

Susan Lenczewski, Legislative Commission on Pensions and Retirement Executive Director

Brian McKnight, Wells Fargo Advisors Representative

Molly Resch, Office of the State Auditor Pension Analyst

The following motions were duly made, seconded and approved:

RESOLVED to approve the September 29, 2016, Working Group Meeting Minutes; and

RESOLVED to approve the draft language, as amended, that clarifies the legal compliance audit requirement for volunteer fire relief associations.

I. Call to Order

Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the September 29, 2016, meeting minutes that had been provided in advance. Hemstad made a motion to adopt the minutes. Fischer seconded the motion that was then adopted unanimously.

III. Discussion of Options to Raise Benefit Levels if a Municipality does not Ratify

Auditor Otto shared that this topic was brought forward by the Bemidji Fire Relief Association (Relief Association). Auditor Otto shared data compiled by the Office of the State Auditor (OSA) on relief association funding levels and benefits for the 2014 calendar year and shared some historical data on rates of return, municipal contributions, and funding levels. Hemstad provided an update on an agreement that the Relief Association and City of Bemidji have been working on to resolve the benefit level issue and shared his thoughts on the broader policy issue. Auditor Otto explained that all relief associations are different and that the dynamics of the plan and the needs of each community need to be understood when setting benefit levels, which is why local control is important.

The members discussed best practices, which include working to build a good relationship with the affiliated municipality. This is done by making sure municipal trustees are appointed who are available and interested in attending relief association board meetings and that they are informed of meetings and provided with opportunities for fiduciary education. Relief association trustees should meet with municipal officials to explain the funding and benefits of the relief association and should regularly attend city council or town board meetings, rather than just meeting with them when seeking approval for a benefit level change.

Finally, the members agreed that additional education on funding, benefit level, and municipal contribution topics would be beneficial. Auditor Otto offered to reach out to the League of Minnesota Cities to see if the League and OSA staff could work jointly on developing training materials early next year.

IV. Discussion of Technical Correction for Ratification Requirements

Hennessy Allen explained that statute defines when municipal ratification of a benefit level change is required and under what circumstances a relief association may increase its benefit level without municipal ratification. There appear to be some scenarios that are not clearly anticipated by the current statute. When OSA staff identify relief associations that fall into an unanticipated scenario, we generally make a conservative interpretation and recommend that municipal ratification of the benefit level change be obtained. The Working Group members felt comfortable with the conservative interpretation and decided not to pursue a legislative clarification at this time. If the scenarios become more common, the members can revisit the topic.

V. Discussion of Technical Clarification for Legal Compliance Audits

Auditor Otto shared that in 2008, the OSA worked on adding a definition of “political subdivisions” to the statute. When the definition was added, there was an unintended consequence that makes the application of the law to relief associations unclear. The Working Group members reviewed draft language that would clarify the statutes so that relief association audits are required to follow the minimum audit procedures prescribed by the OSA. The proposed change is in keeping with the practice that auditors should already be following and is consistent with the requirements of all other local units of government. Fischer made a motion to adopt the draft language. Jaeger seconded the motion. In response to Johnson’s question, the members agreed on a January 1, 2018, effective date. The motion, as amended, was then adopted unanimously.

VI. Other Business

Lenczewski discussed the Investment Business Recipient Disclosure Form that relief associations are required to annually submit to the Legislative Commission on Pensions and Retirement (LCPR). Lenczewski raised the question of whether completion of the Form should still be required and, if so, whether some different office or agency should receive it. Auditor Otto stated that this is a question to be answered by the LCPR and that the Working Group would not take a position on the matter.

VII. Next Meeting

Thursday, October 20, 2016

11 a.m. to 1 p.m.

Office of the State Auditor

X. Adjournment

The meeting was adjourned at 1:00 p.m.

Exhibit B
**Supplemental Benefits for Volunteer Emergency
Medical Personnel**

Topic:

The Working Group is pursuing a legislative change that would permit, subject to approval by the relief association and the affiliated municipality, persons who solely provide volunteer emergency medical services to be members of the relief association and to be eligible for service pensions and benefits on the same basis as volunteer firefighters. If this legislative change is enacted, volunteer emergency medical personnel who are paid service pensions, or whose beneficiaries receive benefits, from a relief association would be ineligible to receive the supplemental benefit.

The supplemental benefit is intended to help offset taxes that must be paid on the service pension or benefit distribution. For service pensions and disability benefits, the amount of the supplemental benefit is equal to 10 percent of the lump-sum distribution, up to a maximum of \$1,000. For survivor benefits, the amount of the supplemental benefit is equal to 20 percent of the survivor benefit distribution, up to a maximum of \$2,000.

Relief associations are eligible to apply for reimbursement from the State of Minnesota for supplemental benefits paid to qualified recipients. Reimbursement payments are disbursed annually in March. The payment is distributed by the State of Minnesota and transmitted to the largest municipality affiliated with the relief association, usually through an electronic funds transfer. The municipal treasurer has 30 days to transfer the supplemental benefit reimbursement amount to the treasurer of the relief association. Reimbursement payments must be deposited into a relief association's special fund.

An optional change is provided below that would include fire prevention personnel and volunteer emergency medical personnel as qualified recipients if they are approved for inclusion in a relief association's membership.

Optional Change:

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

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means a volunteer firefighter ~~an individual~~ who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan ~~for service that the individual has performed as a volunteer firefighter;~~

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter or, if none, the surviving child or children of a deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who (i) regularly renders fire suppression service, the performance or supervision of authorized fire prevention duties, or performance or supervision of authorized emergency medical response activities for a municipal fire department or an independent nonprofit firefighting corporation, ~~who~~ (ii) has met the statutory and other requirements for relief association membership, and ~~who~~ (iii) is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who (i) terminated active firefighting service, the performance or supervision of authorized fire prevention duties, or the performance or supervision of authorized emergency medical response activities, (ii) has sufficient service credit from the applicable relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension; and

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

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

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

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

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

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

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

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

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

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

Exhibit C

Municipality and Fire Department Definition Updates

Topic:

The 2015-2016 Working Group started work on updating the definition of “municipality” in the relief association statutes to include joint powers fire departments. Last session, the Revisor’s Office identified some concerns with drafting if the updated definition were to be implemented. The topic was therefore held over and worked on as an interim project. Below is a first draft of the updated definition of “municipality,” and additional associated changes needed to incorporate joint powers fire departments and make the statutes consistent.

Optional Changes:

424A.001 DEFINITIONS.

Subd. 2. **Fire department.** "Fire department" includes a municipal fire department ~~or~~, an independent nonprofit firefighting corporation, and a joint powers entity established under section 471.59.

Subd. 2a. **Municipal.** “Municipal” means of a city or a township.

Subd. 3. **Municipality.** "Municipality" means a ~~municipality~~ city or township which has established a fire department with which the relief association is directly associated, ~~or the municipalities which~~ a city or township that has entered into a contract with the independent nonprofit firefighting corporation of which the relief association is ~~a subsidiary~~ directly associated, or a city or township that has entered into a contract with a joint powers entity established under section 471.59 of which the relief association is directly associated.

424A.002 AUTHORIZATION OF NEW OR CONTINUING VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATIONS.

Subdivision 1. **Authorization.** A ~~municipal fire department or an independent nonprofit firefighting corporation~~, with approval by the applicable municipality or municipalities, may establish a new volunteer firefighter relief association or may retain an existing volunteer firefighter relief association. A ~~municipal fire department or an independent nonprofit firefighting corporation~~ may be associated with only one volunteer firefighter relief association at one time.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS 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 who are employed to perform fire suppression duties.

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

Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined contribution service pension to each of its members who:

- (1) separates from active service with the fire department;
- (2) reaches age 50;
- (3) completes at least five years of active service as an active member of the ~~municipal~~ fire department to which the relief association is associated;
- (4) completes at least five years of active membership with the relief association before separation from active service; and
- (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that

the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive any disability benefit coverage, is not entitled to receive additional individual account allocation of fire state aid or municipal contribution towards a service pension, and is considered to have the status of a person entitled to a deferred service pension.

(c) The service pension earned by a volunteer under this chapter and the articles of incorporation and bylaws of the relief association may be paid whether or not the municipality or independent nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

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

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the ~~municipal~~-fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service

pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

(c) No municipality or independent nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

Subd. 3a. Penalty for paying pension greater than applicable maximum. (a) If a defined benefit relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

(1) disqualify the municipality or the independent nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and

(2) order the treasurer of the applicable relief association to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(d) The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

(e) The state auditor may certify, upon learning that a relief association overpaid a service pension based on an error in the maximum service pension calculation, the municipality or independent nonprofit firefighting corporation associated with the relief association for fire state aid if (1) there is evidence that the error occurred in good faith, and (2) the relief association has initiated recovery of any overpayment amount. Notwithstanding paragraph (c), all overpayments recovered under this paragraph must be credited to the relief association's special fund.

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. **Membership.** (a) A relief association that is directly associated with a ~~municipal~~ fire department must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association and three trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three municipal trustees must be one elected municipal official and one elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the ~~municipal~~ fire department.

(b) A relief association that is a subsidiary of an independent nonprofit firefighting corporation must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association, two trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee must be the fire chief serving with the independent nonprofit firefighting corporation. The bylaws of a relief association may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The two municipal trustees must be elected or appointed municipal officials, selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the municipal trustees must be two officials of the contracting municipality who are designated annually by the governing body of the municipality; or

(2) if two or more municipalities contract with the independent nonprofit corporation, the municipal trustees must be one official from each of the two largest municipalities in population who are designated annually by the governing bodies of the applicable municipalities.

(c) The municipal trustees for a relief association that is directly associated with a fire department operated as or by a joint powers entity must be the fire chief of the fire department and two trustees designated annually by the joint powers board. The municipal trustees for a relief association that is directly associated with a fire department service area township must be the fire chief of the fire department and two trustees designated by the township board.

(d) If a relief association lacks the municipal board members provided for in paragraph (a), (b), or (c) because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, the municipal board members must be the fire chief of the fire department and two board members appointed from the fire department service area by the board of commissioners of the applicable county.

(e) The term of the appointed municipal board members is one year or until the person's successor is qualified, whichever is later.

(f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights and duties accorded to any other trustee, except the right to be an officer of the relief association board of trustees.

(g) A board must have at least three officers, who are a president, a secretary and a treasurer. These officers must be elected from among the elected trustees by either the full board of trustees or by the relief association membership, as specified in the bylaws. In no event may any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board must be specified in the bylaws of the relief association, but may not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership must be staggered on an equal basis as is practicable.

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means an individual who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter or, if none, the surviving child or children of a deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a ~~municipal~~ fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, has sufficient service credit from the applicable relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension.

Exhibit D

Return to Service Technical Correction

Topic:

A question was raised about the application of the “Return to Service” provision in statute. Specifically, the question was whether the provision applies to all firefighters who have a break in service, or only to firefighters who return to active service after the break in service.

An optional change is provided below that clarifies the provision applies only to firefighters who return to active firefighting after a break in service.

Optional Change:

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

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Subd. 6. **Return to active firefighting after break in service.** (a) This subdivision governs the service pension calculation requirements of a firefighter who returns to active firefighting after a break in service and applies to all breaks in service, except that the resumption service requirements of this subdivision do not apply to leaves of absence made available by federal statute, such as the Family Medical Leave Act, United States Code, title 29, section 2691, and the Uniformed Services Employment and Reemployment Rights Act, United States Code, title 38, section 4301, and do not apply to leaves of absence made available by state statute, such as the Parental Leave Act, section 181.941; the Leave for Organ Donation Act, section 181.9456; the Leave for Civil Air Patrol Service Act, section 181.946; the Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service Act, section 181.947; or the Protection of Jurors' Employment Act, section 593.50.

...