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Maintaining a General Fund After Joining the Statewide Plan

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How do fire relief associations work if their firefighters join the Statewide Volunteer Firefighter Plan (SVF)? Questions about fire relief associations and the SVF Plan are some of our most common, so let's look at what changes if a relief joins the SVF Plan.

Joining the SVF Plan

The Legislature created the SVF Plan as a voluntary plan, and the Public Employees Retirement Association (PERA) administers it. When a fire department joins the SVF Plan, PERA takes over administration of the firefighters' pension fund. The Minnesota State Board of Investment (SBI) invests the assets of the SVF Plan.

Fire relief associations have long been able to invest their assets through the SBI, while maintaining control over and responsibility for the payout of service pensions and benefits. Joining the SVF Plan administered by PERA is different. Under the SVF Plan, a fire relief association transfers its entire special fund to the SBI, and the relief association no longer pays service pensions or benefits because it no longer exists as a public pension fund.

When a fire department joins the SVF Plan, firefighters may choose to continue operating the affiliated relief association as a nonprofit organization and maintain the relief association's general fund. However, these relief associations must make changes to their governing documents to remain in compliance with Minnesota law.

Articles of Incorporation and Bylaws

A relief association electing to maintain its general fund and operate as a nonprofit organization after the affiliated fire department has joined the SVF Plan must make changes to its articles of incorporation and bylaws. Changes to these documents must reflect that the relief association does not pay service pensions or benefits and no longer controls any public funds.

Minnesota law is clear that a relief association with an affiliated fire department that joins the SVF Plan is not authorized to receive the proceeds of any state aid or any municipal funds, and cannot pay service pensions or benefits from its general fund that were not authorized as a general fund disbursement under the articles of incorporation or bylaws of the relief association in effect before the fire department joined the SVF Plan. By filing new articles of incorporation and adopting new bylaws, the relief association acknowledges that it no longer administers a pension fund. The relief association should remove any references to a special fund or to the payment of pensions or benefits from public funds from its governing documents.

The relief association must file its new articles of incorporation with the Minnesota Office of the Secretary of State (SOS). The new bylaws should be kept on file with the relief association. A relief association that elects to maintain its general fund will follow the Minnesota Nonprofit Corporation Act to make changes to its articles of incorporation and bylaws in the future. A relief association may also choose to change the composition of its board of directors in keeping with the provisions of the Nonprofit Corporation Act.

The relief association's name, however, need not change. While the State law creating the SVF Plan makes clear that relief associations continuing to operate as nonprofit organizations after their affiliated fire departments join the SVF Plan no longer pay service pensions or benefits, the statute still calls these nonprofit organizations "relief associations," which may contribute to confusion about their role as nonprofit organizations.

Reporting Requirements

When a fire department joins the SVF Plan, the affiliated relief association no longer falls within the Office of the State Auditor's area of authority because the relief association's general fund does not contain public funds.

Relief associations that continue to operate as nonprofit organizations must complete an annual renewal with the SOS to keep their status as a Minnesota nonprofit corporation active.

Nonprofit organizations, including relief associations, that perform fundraising activities, may have reporting requirements with the Minnesota Attorney General (AG)'s Office. Relief associations should review the information the AG's Office provides under the "charities" tab on its website to determine whether they are required to file a report. Relief associations should contact the AG's Office with any questions regarding reporting requirements related to fundraising.

Relief associations that want to continue operating a charitable gambling fund in addition to their general fund should contact the Minnesota Gambling Control Board.

Relief associations may also have federal reporting requirements with the Internal Revenue Service (IRS). Relief associations should contact the IRS with any questions about their reporting requirements or about how operating solely as a nonprofit organization and not as a public pension fund could affect their tax-exempt status.

It is important for the board of directors of a relief association that chooses to maintain its general fund after the affiliated fire department joins the SVF Plan to seek guidance from an attorney experienced in nonprofit organizations.