

# **Minnesota Volunteer Fire Relief Association**

## **Working Group Meeting**

State Auditor's Office  
Thursday, January 26, 2006  
11 a.m. to 1 p.m.

- I. Call to Order**  
*Rotating Chair State Auditor Patricia Anderson.*
- II. Review and Approval of Working Group Meeting Minutes**  
Exhibit A. Draft January 11, 2006 Minutes
- III. Old Business**
- IV. Pension Rollover Authority for Surviving Spouses**  
Exhibit B. Minn. Stat. § 424A.02, subd. 8b.
- V. Pension Rollover Authority for Deferred Members**  
Exhibit C. Minn. Stat. § 424A.02, subd. 7.
- VI. Professional Association Dues from Special Fund**  
Exhibit D. Minn. Stat. §§ 69.80 and 424A.05.
- VII. Flexible Service Pension Maximums**  
Exhibit E. Minn. Stat. § 424A.02, subd. 3.
- VIII. Review of Working Group Legislative Proposals**  
Exhibits F through J.
  - Definition of Volunteer Firefighter
  - Return of Disabled Firefighters
  - Fire Department Equipment and Personnel Requirements
  - Volunteer Firefighter Relief Association Report
  - Death Benefit Authorization
- IX. Other Business**
- X. Adjournment**

# **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, 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 State Fire Chiefs Association Representative Nyle Zikmund, 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 firefighter does not have a particular meaning in Minnesota Statutes except for 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 were prospectively excluded from PERA membership for activities undertaken as part of volunteer firefighter duties. Previously those whose compensation exceeded the PERA monthly threshold for membership were required to become members. Vanek said PERA employees struggle to determine the pension plan status of volunteer firefighters with split duties or the same duties for volunteer and paid departments. She said the determinations are further complicated by overtime regulations and transitions to fulltime positions.

Martin said an additional definitional concern is that Chapter 424A does not require fire suppression or prevention for relief association membership. He said he is aware of persons who were 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 Police and Fire Fund coverage for the city employees who respond to daytime fire calls. If the Working Group were to lead the way with a volunteer firefighter definition, PERA will do likewise for its side of the dual coverage equation. For instance, she noted that firefighters cannot get coverage if they start as fire marshals because they must be involved in fire suppression or 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, she said.

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 not prefer a clear statutory definition to the flexibility that arguably exists when there is no definition.

Kern recommended that the proposed language state "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, a member of the Minnesota Firefighter Certification Board. Jaeger said firefighters in northern Minnesota are not necessarily certified.

Martin asked whether to include volunteer emergency services personnel, who already may be covered by a statewide longevity benefit plan, in the definition of a volunteer firefighter.

Dietz said some firefighters are cross-trained in both areas so would be volunteer firefighters. Roberts asked if the greater Minnesota area would be impacted if emergency services workers were excluded from the definition and relief association membership. Jaeger said no because many emergency services departments are run by cities and counties.

Legislative clarity would be helpful, said Zikmund, because there have been lawsuits about proper pension coverage in the past. He said nationally it's difficult to get daytime volunteer firefighters and there are fewer emergency calls and fire calls. Although Blaine has been the fastest growing city in the state for the past seven years, the fire department's call volume went up only 2 percent and the fire service calls went down. Commercial industry fires have also gone down due to education and sprinkler systems, he said.

Zikmund said if the Working Group comes up with a volunteer firefighter definition and the flip side is enacted into PERA law, lead time should be given to relief associations to amend their bylaws.

Martin said some volunteer firefighters could find themselves in or out of pension plan coverage based on the definition. He asked whether their service credit earned up until that time should be vested.

Dietz said Maplewood volunteer firefighters who went fulltime must leave the relief association. If they were not vested, they lose their service credit. If they come back to the volunteer fire department, their fulltime period would be treated as a leave of absence.

Auditor Anderson asked whether current volunteer firefighters should be grandfathered into the definition. Zikmund said they could be grandfathered in with full credit such as six years at 100 percent under a ten-year vesting schedule. Dietz disagreed saying relief associations should provide six years but at 44 percent.

Hansen had to leave 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 Working Group then broke for lunch before resuming its discussion. Auditor Anderson excused herself to attend another meeting.

### **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 \$1,000 for each 60 days late saying just a dollar amount or a percentage could over penalize some relief associations. Yet, he said even a large relief association could relate to a \$1,000 fine.

Heyl said only four relief associations forfeited their state fire aid for the 2004 Reporting Year by missing the November 30 deadline. The position of the State Auditor is that there is no need to change, she said.

Rambow said change does not appear to be necessary because just four of 700 plus relief associations forfeited their state fire aid and the total amount forfeited was only about \$20,000.

Zikmund asked whether the deadline dates should be moved to spur more timely compliance. Heyl said timely filing should improve with the introduction of FRPAS, the State Auditor's new Fire Relief Pension Accounting System, and upon 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's General Fund after missing their filing deadline with the Department of Revenue.

The Working Group did not recommend any statutory changes.

### **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 to fire service.

Martin said membership in a volunteer fire department and membership in a volunteer relief association are different because nothing in statute requires every firefighter to be in the volunteer pension plan. He said the state 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 Human Resources Department of the League of Minnesota Cities thinks about encouraging disabled firefighters to return to fire service. Dietz said he has seen previously disabled firefighters go to other communities. Zikmund said he would like to see language to permit disabled firefighters to return if their cities and relief associations are willing to take them back.

Kern asked Martin to draft language for review at the next Working Group meeting.

### **Other Business**

Martin distributed three documents to the members for review before the upcoming meeting. He said that he has been trying to keep up with the drafting of the Working Group's proposals because of the Pension Commission's expedited schedule. The documents include changes to 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 from the Department of Revenue for a surviving spouse of a deferred member. Zikmund also asked for the next agenda to include the Relief Association Audit Requirement. He said there is interest in 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, Rollovers for Deferred Members and Review of Working Group Proposals.

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.

**424A.02 Volunteer firefighters; service pensions.**

Subd. 8b. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the federal Internal Revenue Code, as amended, and that provides a lump sum service pension, at the written request of a retiring member, may directly transfer the eligible member's lump sum pension to the member's individual retirement account under section 408(a) of the federal Internal Revenue Code, as amended.

#### **424A.02 Volunteer firefighters; service pensions.**

Subd. 7. **Deferred service pensions.** (a) A member of a relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

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

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

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

(2) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10; or

(3) at a rate equal to the actual time weighted total rate of return investment performance of the special fund as reported by the Office of the State Auditor under section [356.219](#), up to five percent, compounded annually, and applied consistently for all deferred service pensioners.

A relief association may not use the method provided for in clause (3), until it has modified its bylaws to be consistent with that clause.

(d) Interest under paragraph (c), clause (2) or (3), is payable from the first day of the month next following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees or from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, whichever is later, to the last day of the month immediately before the month in which the deferred member becomes

eligible to begin receipt of the service pension and applies for the deferred service pension.

(e) A relief association that provides a defined contribution service pension may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid in one of the manners specified in paragraph (c) or alternatively the relief association may credit any investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the date on which the investment return is recognized by and credited to the special fund.

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

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

## **69.80 Authorized administrative expenses.**

(a) Notwithstanding any provision of law to the contrary, the payment of the following necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, when provided for in the bylaws of the association and approved by the board of trustees, constitutes authorized administrative expenses of a police, salaried firefighters', or volunteer firefighters' relief association organized under any law of this state:

(1) office expense, including, but not limited to, rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures, and salaries of administrative personnel;

(2) salaries of the president, secretary, and treasurer of the association, or their designees, and any other official of the relief association to whom a salary is payable under bylaws or articles of incorporation in effect on January 1, 1986, and their itemized expenses incurred as a result of fulfilling their responsibilities as administrators of the special fund;

(3) tuition, registration fees, organizational dues, and other authorized expenses of the officers or members of the board of trustees incurred in attending educational conferences, seminars, or classes relating to the administration of the relief association;

(4) audit, actuarial, medical, legal, and investment and performance evaluation expenses;

(5) reimbursement to the officers and members of the board of trustees, or their designees, for reasonable and necessary expenses actually paid and incurred in the performance of their duties as officers or members of the board; and

(6) premiums on fiduciary liability insurance and official bonds for the officers, members of the board of trustees, and employees of the relief association.

(b) Any other expenses of the relief association must be paid from the general fund of the association, if one exists. If a relief association has only one fund, that fund is the special fund for purposes of this section. If a relief association has a special fund and a general fund, and any expense of the relief association that is directly related to the purposes for which both funds were established, the payment of that expense must be apportioned between the two funds on the basis of the benefits derived by each fund.

HIST: 1978 c 690 s 8; 1986 c 359 s 13; 1987 c 372 art 1 s 1; 2002 c 392 art 1 s 2

#### **424A.05 Relief association special fund.**

Subdivision 1. **Establishment of special fund.** Every relief association shall establish and maintain a special fund within the relief association.

Subd. 2. **Special fund assets and revenues.** The special fund shall be credited with all fire state aid moneys received pursuant to sections [69.011](#) to [69.051](#), all taxes levied by or other revenues received from the municipality pursuant to sections [69.771](#) to [69.776](#) or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest earned upon the assets of the special fund. The treasurer of the relief association shall be the custodian of the assets of the special fund and shall be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association shall be public and shall be open for inspection by any member of the relief association, any officer or employee of the state or the municipality, or any member of the public, at reasonable times and places.

Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements from the special fund are not permitted to be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, 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;

(4) for the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;

(5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association in order to entitle relief association members to membership in and the benefits of these associations or organizations; and

(6) for the payment of administrative expenses of the relief association as authorized pursuant to section [69.80](#).

(b) For purposes of this chapter, a designated beneficiary must be a natural person.

Subd. 4. **Investments of assets of the special fund.** The assets of the special fund shall be invested only in securities authorized by section [69.775](#).

HIST: 1979 c 201 s 15; 1981 c 224 s 211; 1981 c 224 s 274; 1983 c 219 s 9; 2000 c 461 art 15 s 11

**424A.02 Volunteer firefighters; service pensions.**

Subd. 3. **Flexible service pension maximums.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section [69.772](#), subdivision 4, or [69.773](#), subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section [69.772](#), subdivision 2; [69.773](#), subdivisions 2 and 4; or [69.774](#), subdivision 2, if any.

(b) The maximum service pension which the relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$...	\$ .25
41	.50
81	1.00
122	<a href="#">1.50</a>
162	2.00
203	<a href="#">2.50</a>
243	3.00
284	<a href="#">3.50</a>
324	4.00
365	<a href="#">4.50</a>
405	5.00
486	6.00
567	7.00

648	8.00
729	9.00
810	10.00
891	11.00
972	12.00
1053	13.00
1134	14.00
1215	15.00
1296	16.00
1377	17.00
1458	18.00
1539	19.00
1620	20.00
1701	21.00
1782	22.00
1823	<a href="#"><u>22.50</u></a>
1863	23.00
1944	24.00
2025	25.00
2106	26.00
2187	27.00
2268	28.00
2349	29.00
2430	30.00
2511	31.00
2592	32.00
2673	33.00
2754	34.00
2834	35.00
2916	36.00
2997	37.00
3078	38.00
3159	39.00
3240	40.00
3321	41.00
3402	42.00
3483	43.00
3564	44.00
3645	45.00
3726	46.00
3807	47.00
3888	48.00
3969	49.00
4050	50.00
4131	51.00
4212	52.00

4293	53.00
4374	54.00
4455	55.00
4536	56.00

(d) For a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, the maximum lump sum service pension amount for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

Minimum Average Amount of Available Financing per Firefighter	Maximum Lump Sum Service Pension Amount Payable for Each Year of Service
\$..	\$ 10
11	20
16	30
23	40
27	50
32	60
43	80
54	100
65	120
77	140
86	160
97	180
108	200
131	240
151	280
173	320
194	360
216	400
239	440
259	480
281	520
302	560
324	600
347	640
367	680
389	720
410	760
432	800
486	900

540	1000
594	1100
648	1200
702	1300
756	1400
810	1500
864	1600
918	1700
972	1800
1026	1900
1080	2000
1134	2100
1188	2200
1242	2300
1296	2400
1350	2500
1404	2600
1458	2700
1512	2800
1566	2900
1620	3000
1672	3100
1726	3200
1753	3250
1780	3300
1820	3375
1834	3400
1888	3500
1942	3600
1996	3700
2023	3750
2050	3800
2104	3900
2158	4000
2212	4100
2265	4200
2319	4300
2373	4400
2427	4500
2481	4600
2535	4700

2589	4800
2643	4900
2697	5000
2751	5100
2805	5200
2859	5300
2913	5400
2967	5500
3021	5600
3075	5700
3129	5800
3183	5900
3237	6000
3291	6100
3345	6200
3399	6300
3453	6400
3507	6500
3561	6600
3615	6700
3669	6800
3723	6900
3777	7000
3831	7100
3885	7200
3939	7300
3993	7400

(e) For a relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a relief association establishes a service pension in compliance with the applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.



TO: Volunteer Firefighter Relief Association Working Group  
FROM: Lawrence A. Martin, Executive Director *Lawrence A. Martin*  
RE: Draft Proposed Legislation LCPR06-007: Definition of Volunteer Firefighter  
DATE: January 17, 2006

#### Summary of Draft Proposed Legislation LCPR06-007

Draft proposed legislation LCPR06-007 amends Minnesota Statutes, Section 424A.001, the definitions governing the general volunteer firefighter relief association chapter, by adding a definition of the term "volunteer firefighter." The term is defined, effective January 1, 2008, as:

1. Pre-July 1, 2006, Firefighters. Whatever definition applied locally by the applicable fire department and relief association; and
2. Post-June 30, 2006, Firefighters. A person engaged in emergency response services as a member of the fire department, is either trained or qualified to provide fire suppression functions, or, if the municipality has approved the inclusion of fire prevention as a firefighting service, to provide fire prevention service, and meets any fire department or relief association minimum firefighter and service standards.

#### Discussion and Analysis

Draft proposed legislation LCPR06-007 grandparents in current (pre-July 1, 2006) volunteer firefighters and defines future volunteer firefighters as emergency response personnel who are trained or otherwise qualified in fire suppression or prevention and who meet any local fire department or relief association minimum standards.

The draft proposed legislation will raise several pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Appropriateness of Grandparenting Current Volunteer Firefighting Personnel. The policy issue is the appropriateness of grandparenting in all current (pre-July 1, 2006) volunteer fire department/volunteer firefighter relief association personnel as "volunteer firefighters." The provision makes the easiest transition to the incorporation of a standard system-wide definition, but also legitimizes all current practices statewide that might not meet the common understanding of what constitutes a volunteer firefighter, without the Legislature being fully cognizant of the various practices that are legitimized. Appropriateness is a function of the goals behind proposed legislative changes. If the goal in defining the term is to avoid having individuals accrue double retirement plan coverage for the same firefighting service, the full grandparent will correct the perceived abuse in the future, but will not resolve current potential or actual abuses. If the goal is to correct other abuses or resolve other problems, the full grandparent similarly will delay achieving the full benefit of the regulation until all current firefighters terminate active service, essentially a generation.
2. Effectiveness of the Potential Definition in Preventing Duplicate Concurrent Pension Coverage. The policy issue is the effectiveness of the draft proposed legislation in preventing duplicate volunteer firefighter relief association coverage and coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) or the Public Employees Police and Fire Retirement Plan (PERA-P&F) for rendering firefighting services. PERA-General and PERA-P&F excludes from retirement coverage for service that is credited by a volunteer firefighter relief association for volunteer firefighters who were not members of PERA-General or PERA-P&F for that volunteer firefighting service on June 30, 1989. The proposed definition grandparents in certain current firefighters and the 1989 PERA legislation on volunteer firefighters also grandparented certain firefighters, so some individuals who do not perform customary firefighting duties but are members of a volunteer fire department may continue to have duplicate concurrent retirement coverage. To the extent that the new definition eliminates from volunteer firefighter relief association coverage individuals who perform only ambulance/emergency medical services or who perform fire department tasks that are neither fire suppression or fire prevention and those individuals are more than minimally compensated by a governmental entity, the definition actually may increase the number of PERA-

General members. The definition does not appear to increase the potential for duplicate concurrent pension coverage.

3. Need for Complimentary Revision in the Volunteer Firefighter Definition in PERA-General/PERA-P&F. The policy issue is the need for a revision in the definition of volunteer firefighter in Minnesota Statutes, Section 353.01, Subdivision 36, in order to complement the proposed definition of volunteer firefighter in Minnesota Statutes, Chapter 424A. Minnesota Statutes, Section 353.01, Subdivision 36, and Section 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 that past service. Since the PERA definition excludes service as a volunteer firefighter credited by a volunteer firefighter relief association from coverage by PERA-General or by PERA-P&F, unless the pre-1989 grandparenting provisions applies, the addition of a definition of volunteer firefighter to Minnesota Statutes, Chapter 424A, does not appear to complicate the current situation.
4. Appropriateness of Allowing Fire Prevention Training as an Alternative to Fire Suppression Training in Definition. The policy issue is the appropriateness of the proposed volunteer firefighter definitions in permitting training in fire prevention as an alternative to fire suppression training. The addition of fire prevention services as firefighting services eligible for volunteer firefighter relief association coverage is relatively new. The Commission staff does not have information about the number of fire prevention personnel who are volunteer firefighter relief association members and whether or not fire prevention personnel are routinely cross-trained as fire suppression personnel also. If cross-training is the norm, the definition could be modified to omit fire prevention training entirely. If fire prevention personnel are not routinely cross-trained as fire suppression personnel, there may be a need for additional testimony or discussion to add to the comfort level of policy makers in making prevention training appropriate as an alternative training requirement.
5. Applicability of the Proposed Definition to Volunteer Departments Providing Ambulance Services Also. The policy issue is whether or not the proposed definition appropriately applies to volunteer firefighter relief associations associated with fire departments that also provide ambulance services. If the general practice among volunteer fire departments which also provide ambulance services is to cross-train its first responder/emergency medical technician/paramedic personnel as fire suppression personnel, the definition will not cause complications. If the goal is to promote that cross-training, the definition would likely cause that change. If volunteer fire departments with ambulance services have strong feelings about the appropriateness of cross-training, further discussion with those departments may be necessary before settling on the current proposed legislation.
6. Applicability of the Proposed Definition to Volunteer Fire Departments with “Other” Service Providers. The policy issue is the appropriateness of the proposed definition if there is a widespread practice of according to fire department personnel who perform miscellaneous “other” duties the status of volunteer firefighter. Some of those duties could be volunteer firefighter relief association record-keeping duties, fire department administrative or maintenance duties, or fire equipment maintenance. If volunteer firefighter relief association coverage is the sole or primary tool for encouraging individuals to perform necessary fire suppression or emergency response services, that same coverage could be the same factor to encourage the performance of volunteer firefighter relief association administrative/record-keeping/clerical duties, fire department plumbing/heating/building maintenance duties, or fire equipment repair and maintenance duties. Curtailing the volunteer firefighter relief association coverage for individuals who cannot be or prefer not to be trained in fire suppression functions in volunteer fire departments or volunteer firefighter relief associations which lack sufficient personnel to perform these other functions may cause a serious deterioration in the operation of that fire department or relief association.

1.1 A bill for an act  
1.2 relating to retirement; volunteer firefighter relief associations; defining the term  
1.3 "volunteer firefighter"; amending Minnesota Statutes 2004, section 424A.001, by  
1.4 adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2004, section 424A.001, is amended by adding a  
1.7 subdivision to read:

1.8 Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who:

1.9 (1) was a member of the fire department or the firefighting corporation and a member  
1.10 of the relief association on July 1, 2006; or

1.11 (2) became a member of the fire department or the firefighting corporation after  
1.12 June 30, 2006, and

1.13 (i) is engaged in providing emergency response services as a member of a municipal  
1.14 fire department, a joint powers entity fire department, or an independent nonprofit  
1.15 firefighting corporation;

1.16 (ii) is trained in or is qualified to provide fire suppression duties or to provide fire  
1.17 prevention duties under subdivision 8; and

1.18 (iii) meets any other minimum firefighter and service standards established by the  
1.19 fire department or firefighting corporation or specified in the articles of incorporation or  
1.20 bylaws of the relief association.

1.21 Sec. 2. **EFFECTIVE DATE.**

1.22 Section 1 is effective on January 1, 2008.



TO: Volunteer Firefighter Relief Association Working Group

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

RE: Draft Proposed Legislation LCPR06-008: Return of Disabilitants to Active Service and Relief Association Membership

DATE: January 17, 2006

#### Summary of Draft Proposed Legislation LCPR06-008

Draft proposed legislation LCPR06-008 authorizes volunteer firefighter relief associations, if their articles of incorporation or bylaws so permit, to return to active relief association membership previously disabled firefighters who returned to active firefighting service with the respective municipal fire department or nonprofit firefighting corporation and to acquire future relief association service credit or relief association contribution and investment allocations without repaying the disability benefits, subject to the current vesting requirements.

#### Discussion and Analysis

Draft proposed legislation LCPR06-008 provides a procedure by which volunteer firefighter relief associations can readmit formerly disabled firefighters to a resumption of relief association membership and the acquisition of future service credit towards a future relief association service pension if their bylaws or articles of incorporation so permit.

The draft proposed legislation will likely raise numerous pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Appropriateness of Retention of the Current Punitive Premature Service Pension Payment Provision.  
The policy issue is whether or not it is appropriate to retain the current statutory provision that requires the repayment of a service pension that is paid without the actual permanent separation from active firefighting service by the firefighter and prohibits the acquisition of any additional service credit for post service credit payment service. Minnesota Statutes, Section 424A.02, Subdivision 96, added in 2000 (Laws 2000, Chapter 461, Article 15, Section 8), was part of a package of volunteer firefighter relief association modifications suggested by Minnesota Area Relief Association Coalition (MARAC) and reviewed by the Commission's Firefighter Pension Subcommittee during the 1999-2000 Interim and was intended to bolster the requirement that firefighters totally terminate active firefighting service before becoming eligible to receive a service pension. The provision is clearly punitive, requiring the repayment by a non-separating firefighter of the premature service pension amount and prohibiting the payment of any additional service pension amount for the pseudo-separation period. The provision has been misinterpreted as being applicable to situations where a formerly disabled firefighter resumes active firefighting service, but Minnesota Statutes, Chapter 424A, is currently silent on the question of how to handle a disabilitant returning to active service. Apparently, some fire chiefs and other fire department personnel have attempted to receive a volunteer firefighter relief association service pension at their earliest eligibility date while attempting to continue in their fire department service capacity and the current statutory provision makes that abuse less likely.
2. Appropriateness of Encouraging the Return of Disabled Firefighters to Active Fire Department Service. The policy issue is the appropriateness of potential legislation that encourages a return to active fire department service previously disabled firefighters through authority to again become eligible for future volunteer firefighter relief association service credit acquisition. Aside from Minnesota Statutes, Section 424A.01, Subdivision 1, prohibiting municipal fire departments or independent nonprofit firefighting corporations from employing or utilizing minors as firefighters, State volunteer firefighter pension law is silent on the authority of fire departments or firefighting corporations to retain fire personnel, including previously disabled firefighters. One reason why a previously disabled firefighter would hesitate to attempt to return from a disability to active fire service is the potential that the applicable volunteer firefighter relief association would not cover post-disability firefighting service and may even require the repayment of the disability benefit received. The potential legislation would remove that potential disincentive, thereby encouraging disabled firefighters to attempt to return to active firefighting service. If the firefighting community or municipal governments cannot contemplate disabled firefighters returning to active service, the

provision would not be warmly received. If the need for firefighters in some or many locales of the State is sufficiently great and if the supply of firefighters is sufficiently limited that formerly disabled, now recovered or recovering firefighters could be of assistance, the provision would be warmly received.

3. Appropriateness of Making the Return of a Disabled Firefighter Contingent on Relief Association Action. The policy issue is the appropriateness of requiring volunteer firefighter relief association bylaw or article of incorporation passage before a previously disabled firefighter could return to active fire department service and receive future volunteer firefighter relief association service credit for that post-disability firefighting service. The practice of requiring volunteer firefighter relief association action before a benefit change or addition is implemented is consistent with the general approach to volunteer firefighter relief association regulation, where State law generally specifies minimums and maximums on benefit practices, but leaves the implementation of any benefit practice to the locality. The practice, however, leads to potentially disparate practices both locally and statewide. Volunteer firefighter relief associations are not required to provide disability benefits, although most volunteer firefighter relief associations probably do so. Allowing or encouraging disabled volunteer firefighters to return later to firefighting service increases to potential pool of available firefighters, but adds personnel who may be limited in the service that they can provide. Relying on individual volunteer firefighter relief association action will allow for local decisions on that balancing question. Relying on individual volunteer firefighter relief associations to implement the authority will, however, permit personal differences or other problematic differential treatment to occur, at least in the case of the initial returning disabled firefighter. Disabled firefighters who recover subsequently also may be in demand by adjoining volunteer fire departments and volunteer firefighter relief association, where they would reenter firefighting service on the same basis as permitted under the potential legislation.
  
4. Appropriate Manner of Crediting Post-Return Service by Returning Disabled Firefighters. The policy issue is the appropriateness of providing that a volunteer firefighter relief association treat a firefighter returning from a disability the same as an entirely new firefighter with respect to vesting. The potential legislation does not require a previously disabled firefighter who returns from that disability to repay the disability benefit, but requires the returning firefighter meet the same vesting schedule that would be applicable if the firefighter were a brand new firefighter. Before 1977 (see Minnesota Statutes 1977 Supplement, Section 69.06; Laws 1977, Chapter 171, Section 1), volunteer firefighter relief associations were required to use “cliff” vesting, where a firefighter was not vested at all before obtaining 20 years of fire department service and ten years of relief association membership. In 1977, the fire department service credit “cliff” vesting requirement was dropped to 15 years of fire department service, but the change was not requested at the time by the firefighter community. When the volunteer firefighter relief association governing law recodification occurred in 1979 (see Laws 1979, Chapter 201), with input from the Minnesota Fire Department Association and the League of Minnesota Cities, the current partial vesting with less than 20 years of fire department service schedule replaced the 15 years “cliff” vesting provision. The potential provision would treat a returning disabled firefighter identical to a new firefighter, requiring the returning disabled firefighter to acquire 20 years of post-disability service credit in order to become 100 percent vested for a service pension. The provision, thus, is not as encouraging to potential returning disabled firefighters as a provision that would recognize prior service credit for vesting purposes only (i.e., a returning disabled firefighter with 10 years of pre-disability fire department service and 10 years of post-disability service would be 100 percent vested for a 10-year service pension amount rather than being 60 percent vested for a 10-year service pension amount). The less generous provision, however, would work to dissuade potential sham “disabilities” just to obtain the equivalent to a service pension at an early age, but would likely work to encourage “second” disabilities by a formerly disabled firefighter in order to evade the vesting schedule benefit reduction that does not typically apply to disability benefits.

1.1 A bill for an act  
1.2 relating to retirement; volunteer firefighter relief associations; providing for the  
1.3 return of disabilitants to active service in certain cases; amending Minnesota  
1.4 Statutes 2004, section 424A.02, subdivision 9b.

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

1.6 Section 1. Minnesota Statutes 2004, section 424A.02, subdivision 9b, is amended to  
1.7 read:

1.8 Subd. 9b. **Repayment of service pension in certain instances; active service**  
1.9 **resumption by certain disabilitants.** (a) If a retired volunteer firefighter does not  
1.10 permanently separate from active firefighting service as required by subdivision 1 and  
1.11 section 424A.001, subdivision 9, by resuming active service as a firefighter in the same  
1.12 volunteer fire department or as a person in charge of firefighters in the same volunteer  
1.13 fire department, no additional service pension amount is payable to the person, no  
1.14 additional service is creditable to the person, and the person shall repay any previously  
1.15 received service pension.

1.16 (b) If the articles of incorporation or bylaws permit, a former firefighter who  
1.17 terminated active service with the municipal fire department or firefighting corporation  
1.18 to which the relief association is associated, who previously received a disability benefit  
1.19 from the relief association, and who returns to active service with that fire department  
1.20 or firefighting corporation may resume active membership in the relief association and  
1.21 earn additional service credit if the relief association is a defined benefit plan or receive  
1.22 credit for additional state aid, municipal contribution, investment income, and forfeiture  
1.23 allocations if the relief association is a defined contribution plan. The returning firefighter  
1.24 is not required or permitted to repay the previously received disability benefit, the service

2.1 credit related to the period of firefighting service before the receipt of the disability benefit  
2.2 remains cancelled by the receipt of the prior disability benefit, and the vesting for a service  
2.3 pension related to the service rendered after the return is governed by subdivision 2.

2.4 Sec. 2. **EFFECTIVE DATE.**

2.5 (a) Section 1 is effective on January 1, 2007.

2.6 (b) Section 1 may be implemented to apply to former firefighters who terminated  
2.7 active firefighting service after January 1, 2000, and before the date of enactment of  
2.8 this act.



TO: Volunteer Firefighter Relief Association Working Group  
FROM: Lawrence A. Martin, Executive Director *LAM*  
RE: Draft LCPR06-002; Revision of Fire State Aid Program Fire Department Equipment and Personnel Requirements  
DATE: January 9, 2006

#### Summary of Draft LCPR06-002

Draft LCPR06-002 amends Minnesota Statutes, Section 69.011, Subdivision 4, the minimum fire department equipment and personnel requirements for the qualification for fire state aid, by removing a 1972 deadline date on the formulation of alternative equivalent equipment and personnel requirements by the State Fire Marshal, by clarifying that the equivalent requirements provide an indication of a capable and functioning fire department, and by changing the source of the promulgation of additional fire department equipment and personnel requirement rules from the Revenue Commissioner to the State Fire Marshal.

#### Background and Historical Information on the Fire State Aid Program

1. 1885 Creation of Fire State Aid. In 1885 (Laws 1885, Chapter 187), the fire state aid program was established. The 1885 fire state aid program dedicated one-half of the premium taxes (essentially one percent of premiums) collected by the State from fire insurance companies as fire state aid. The allocation of the fire state aid was on the basis of the amount of premiums received by the fire insurance companies for each city, town, village, or other municipal corporation that had previously filed a certificate of the existence of an organized fire department that had been in existence for at least one year and that had at least one fire engine, hook and ladder truck, or hose cart. The municipal certification, prepared by the municipal recorder or clerk, was required annually, no later than October 31, and was to include information on the number of fire engines possessed by the fire department, the number of hook and ladder trucks and hose carts actually used by the fire department, the system of water supply used by the fire department, and any additional information the insurance commissioner required. Fire insurance companies were required, by the subsequent July 1, to complete an insurance commissioner form that listed the various towns entitled to receive fire state aid by reporting the amount of the prior year's annual fire insurance premiums received in each of the named towns, cities, villages or other municipal corporations. The 1885 fire state aid was payable to the city, town, village, or municipal corporation treasurer and was required to be placed in a special municipal fund and expended, first, for the support and relief of firefighters who were injured or disabled in the line of duty and, second, for equipping and maintaining the fire department.

The Minnesota Insurance Department was created in 1872 and Minnesota was one of the first states to regulate insurance business. The total insurance premium taxes paid to the State of Minnesota in 1880 were \$28.4 million. In 1902, fire insurance premium taxes totaled \$120,000, of which \$60,000 was allocated as fire state aid. A. R. McGill, of St. Peter, was the Insurance Commissioner in 1885, when the fire state aid program was created, and became Governor of Minnesota for one term in 1887.

2. 1903 Revision of the Fire State Aid Program. In 1903 (Laws 1903, Chapter 20), the fire state aid program was revised. The principal revisions were an increase in the amount of the fire insurance premium tax that was dedicated to the program from one-half of the premium taxes collected to the total amount, the inclusion of the widow and orphans of firefighters as a permissible fire state aid expenditure, the expansion of fire state aid expenditure requirements to include firefighters who became sick or who were injured or disabled other than while on duty, the addition of a requirement that a municipality's fire state aid be paid directly to the relief association treasurer if there is an incorporated fire department relief association in the municipality that was organized with municipal consent, and the addition of a requirement that the public examiner examines the books of the relief association periodically. The fire state aid program was also clarified by the 1903 legislation as applicable to partially paid and partially volunteer fire departments as well as to organized fire departments.
3. 1943-1945 Increased Connection Between Fire State Aid and Firefighter Service Pensions. In 1943 (Laws 1943, Chapter 323), the prior authority to use the aid to purchase fire equipment and to cover

other costs of operating the fire service was deleted. In 1945, (Laws 1945, Chapter 225) legislation was enacted that provided for the use of fire state aid for firefighting equipment purposes only if no firefighter relief association is associated with the department. That restriction on the use of fire state aid in the event that a firefighter relief association exists remains the applicable law to this date.

4. 1969 Revision of the Fire State Aid Program. In 1969 (Laws 1969, Chapter 1001), the Legislature substantially revised the fire state aid program. The 1969 Legislature extended the premium tax dedicated to the fire state aid program beyond fire insurance premium taxes paid by domestic mutual insurance companies to include township and farmers' insurance companies and to include lightening and sprinkler leakage insurance coverage, but excluded automobile and ocean marine fire business. Nonprofit firefighting corporations that have a relief association or a retirement plan were also included in the fire state aid allocation. The qualification requirements for fire state aid were augmented, with the addition of fire department minimums, including at least ten firefighters, regular meetings and drills, at least one motorized fire truck of a minimum size, housing for fire apparatus, and a mechanism for sounding a fire alarm, with the fire department to be inspected by the state fire marshal. The fire state aid apportionment method also changed from a system based on the geographical location of the insured property to a system with the geographical location of the insured property to a system with one-half based on the relative population size, based on the last federal census, and one-half based on the relative property value. The initial allocation was on a county basis and, within a county, on a firetown basis. Provision was also made for allocating the population and property value of firetowns served by more than one fire department.

The 1969 fire state aid program changes were prompted by a growing dislike in the firefighting community with the prior system based on insurance company reporting of premiums, because fire insurance agents were not correctly identifying the firetown associated with each municipality and nonprofit firefighting corporation or with each property, and the resulting fire state aid allocations for some municipalities were consequently greatly overstated and for some municipalities were greatly understated. The 1969 changes were proposed by a special working group operating under the auspices of the Legislative Research Committee. The special working group took extensive testimony from representatives of the firefighting community.

5. 1988 Fire and Related Insurance Premium Tax Changes. In 1988 (Laws 1988, Chapter 719, Article 2, Sections 1 to 5), the Legislature began altering the fire insurance premium tax base, the fire insurance premium tax rates, and the relationship between tax revenues and fire state aid. As of 1987, the Minnesota tax system gave preferential treatment to a segment of Minnesota companies. Minnesota mutual insurance companies, including township and farmers' insurance companies, paid a premium tax of two percent of the premiums for Minnesota properties on fire, lightning, and sprinkler damage leakage premiums. Other Minnesota-based insurance companies and all non-Minnesota-based insurance companies paid a two percent tax on a broader base of all premiums for any type of insurance written for Minnesota clients, except for certain marine insurance, including policies written on workers' compensation, automobile, aircraft, and the liability portion of homeowners insurance, commercial multiple peril insurance, farm owners multiple peril insurance, and the extended coverage fire policies.

In 1988, the Legislature created a uniform premium tax base for all insurance companies but created differential tax rates. The changes were in response to court cases from other jurisdictions. A few years earlier, several insurance companies successfully challenged the states of Alabama and North Dakota for giving domestic (located in that state) companies preferential premium tax treatment. The United States Supreme Court ruled the preference given to domestic companies in those states was discriminatory and unconstitutional, based on an equal protection argument. To avoid a similar successful challenge in Minnesota, the 1988 Legislature changed the insurance premium tax system, although it in effect substituted one form of discrimination for another. The Legislature created a uniform insurance premium tax base for all companies, but varied the tax rate according to the nature of the insurance products sold and the company's asset size. The premium tax base is the net premiums on all direct business received by the insurer in this state. To the premium tax base are applied the insurance premium tax rates. Life insurance companies, and other insurance companies having assets on December 31, 1989 of more than \$1.6 billion, were required to pay a two percent tax on the base. Other insurers were required to pay a lower tax rate. For those insurers subject to the lower base, the rate changes were phased in. On premiums paid on January 1, 1989, and before January 1, 1992, the tax was one percent. As of January 1, 1992, and thereafter, the rate was one-half of one percent.

The 1988 Legislature decided to insulate the fire state aid recipients from the changes in tax collections by severing the relationship between the tax collection amount and the aid distribution amount. Despite the tax rate and tax base change, the aid base and the rate used to compute the fire state aid was to remain the same. The Department of Revenue, using the information contained in the Minnesota Firetown Premium Reports, was to compute an amount of revenue equal to two percent of the reported premiums for fire, lightning, sprinkler leakage, and extended coverage policy premiums. The balance of the computed aid amount above the actual premium tax collections was appropriated from the State General Fund through an open appropriation and distributed as fire state aid.

6. 1991 Fire and Related Insurance Premium Tax Changes. In 1991 (Laws 1991, Chapter 291, Article 13), the Legislature reversed the policy of insulating fire state aid recipients from changes in tax collections and the tax amounts dedicated to the program were limited to the amount generated by the actual fire insurance premium tax rates in effect, which for mutual insurance companies under \$1.6 billion in assets as of December 1, 1989, is less than two percent on insurance premiums reported for fire, lightning, sprinkler damage, and extended coverage.

Also in 1991, the initial step in allocating fire state aid by apportioning the fire insurance premium tax proceeds between counties was eliminated. For the municipalities in some counties, the new procedure produced considerably lower fire state aid due to two effects, the within-county distributional effect and the effect of the treatment of "unprotected lands." The within-county distributional effect occurs in a county that has a relatively low population and where that population is not uniformly distributed within the county. Under the pre-1991 distributions, a relatively populated municipality in a sparsely populated county could receive a larger share of aid than it would in 1991 and later allocations. Also in 1991, the property value portion of the fire state aid distribution changed from being based on net tax capacity, exclusive of mineral values, to full market value, exclusive of mineral values and including tax exempt property values.

A few counties also had lower fire state aid under the post-1990 distributions because of the effect of a change in recognizing unprotected lands within the counties. Unprotected lands are areas that are not served by a qualifying fire department. Under the pre-1991 fire state aid allocations, property wealth and population in unprotected lands were reflected in the aid allocated to the county. This total county-level aid was then distributed only among the municipalities and fire protection districts. When the county-level allocation was eliminated in 1991, population and property wealth lying outside a municipality or fire protection district was no longer reflected. The municipalities and fire protection districts in counties with significant unprotected lands would lose fire state aid relative to earlier distributions. Most counties have little or no unprotected land and thus were not impacted by the different treatment of unprotected lands under the post-1991 allocation system. However, several counties have considerable unprotected lands, including Cook, Lake of the Woods, Koochiching, and Clearwater, causing this different treatment to have a major impact on the fire state aid received.

7. 1995 Fire Insurance Premium Tax Increase. In 1995 (Laws 1995, Chapter 264, Article 9), the various insurance premium taxes were increased and the revenue available for the fire state aid program was also increased. The 1995 Legislature increased the insurance premium tax rates for town and farmers' mutual insurance companies and for mutual property casualty companies with assets no greater than \$1.6 billion. The pre-1995 insurance premium tax rate for these mutual insurance companies was one-half of one percent of the amount of all premiums. The rate was increased by the 1995 Legislature to two percent of all life insurance premiums, one percent of all other insurance premiums for all town and farmers' mutual insurance companies and for the smaller mutual property and casualty companies (assets of no more than \$5 million) and 1.26 percent of all other insurance premiums for the larger mutual property and casualty companies (assets over \$5 million and no greater than \$1.6 billion). The 1995 Legislature increased the insurance premium tax revenue dedicated to the fire state aid program and the police state aid program. For the fire state aid program, the dedicated revenue was increased from the amount of insurance premium taxes collected on fire, lightning, sprinkler leakage, and extended coverage insurance, to the greater amount of either 107 percent of the fire, lightning, sprinkler leakage, and extended coverage insurance premium taxes collected or an amount equal to one percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by town and farmers' mutual insurance companies and by mutual property and casualty companies with assets not exceeding \$5 million and to two percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by all other fire risk insurers.
8. 1996 Minimum Fire State Aid/Volunteer Firefighter Additional Fire State Aid. In 1996 (Laws 1996, Chapter 438, Article 4, Sections 2 and 9), the Legislature decided to implement a minimum fire state aid floor for volunteer firefighter relief associations that currently receive a disproportionately small

amount of fire state aid on a per active member (1993 count) basis. The fire state aid floor is funded from sources other than the insurance premium tax structure. Thirty percent of any unallocated amortization or supplemental amortization state aid (caused by payment of a thirteenth check by the Minneapolis Police or Minneapolis Fire Relief Associations, or by a police or paid fire relief association or consolidation account reaching full funding) is to be used to establish a minimum fire state aid amount for volunteer fire relief associations. The aid is to be allocated to the relief associations so that all municipalities or fire departments with volunteer firefighter relief associations receive in total at least a minimum fire state aid amount per 1993 active volunteer firefighter, based on a maximum of 30 firefighters. The amount of the minimum fire state aid is a function of the amount of the funding available. The 1996 minimum fire state aid program was intended to resolve shortcomings in the pre-1996 fire state aid program. The principal shortcoming is in the fire state aid allocation procedure, since that procedure does not consider the ability of the local area to finance fire-related services. Areas with high property wealth are generally areas with a high average income, suggesting that considerable fire state aid is going to areas with the highest ability to finance fire services locally. Areas with relative low property wealth and low population receive little fire state aid under the base formula, but the need for fire protection services could be relatively high due to the age or nature of the insurable property. The minimum fire state aid was an effort to address a longstanding concern that the post-1969 fire state aid provides unreasonably low aid amounts per firefighter in many communities in the state. Many jurisdictions were receiving well under \$100 per firefighter before 1986. After the new aid system was introduced, the floor aid per eligible firefighter was increased to slightly over \$260 per firefighter.

To address the inadequate funding to the many jurisdictions receiving minimal amounts of state fire tax aid, the Legislature tapped another money source and directed the additional aid to those recipients receiving the least amount of aid per firefighter. The money source was the unallocated aid in the police and paid fire amortization and supplemental amortization aid programs. The amortization aid programs were established around 1980 to provide additional funding to police and paid fire relief associations that were closed to new members. Amortization aid is not paid to the Minneapolis police or fire relief associations if those associations pay a thirteenth check, and the amortization aids also are terminated for any relief association or consolidation accounts that become fully funded. Due to these events, some of the appropriation set aside for amortization and supplemental amortization aids is not allocated. Under the 1996 law, 70 percent of this unallocated amortization aid is reallocated to the Minneapolis Teachers Retirement Fund Association (MTRFA) and the St. Paul Teacher Retirement Fund Association (SPTRFA), and 30 percent is used to fund the minimum floor fire state aid program. The revenue allocated to the minimum floor fire state aid program is targeted to those volunteer fire relief associations that receive low aid per firefighter under the state fire tax aid program. The firefighter count used in the allocation procedure is the number of firefighters, not to exceed 30 firefighters, in each relief association in existence in 1993. The minimum floor fire state aid program brings the funding for those associations receiving the least aid per firefighter up to a higher, uniform level.

9. 1999 Minimum Fire State Aid Amendments. In 1999 (Laws 1999, Chapter 222, Article 5), the Legislature modified the minimum fire state aid/additional volunteer firefighter state aid program by making municipalities with volunteer firefighter relief associations established after 1993 eligible for inclusion in the minimum floor fire aid distribution, using the 1998 member count for those post-1993 relief associations, but not to exceed 30 firefighters.

#### Discussion and Analysis

Draft LCPR06-002 modifies the minimum fire department equipment and personnel requirements for the qualification for fire state aid by making the following changes:

- a. Elimination of 1972 Date on Equivalent Requirements. The current July 1, 1972, date on the development of equivalent minimum requirements is eliminated, allowing for the State Fire Marshal to develop updated minimum requirements;
- b. Capable and Functioning Fire Department Equivalents. The fire department requirement equivalency must be indicative of a capable and functioning fire department; and
- c. Promulgation of Other Requirements by the State Fire Marshal. The responsibility for the promulgation of rules specifying other requirements for fire department equipment and personnel is shifted from the Revenue Commissioner to the State Fire Marshal.

The changes in the draft proposed legislation will raise several public policy issues that may merit consideration and discussion by the Legislative Commission on Pensions and Retirement, including:

1. Appropriateness of Updating Fire Department Equipment and Personnel Equivalency Requirements. The policy issue is the appropriateness of the elimination of the current July 1, 1972, date relating to the fire department personnel and equivalency determination by the State Fire Marshal. The intent of the change is to provide flexibility to the State Fire Marshal in determining whether a fire department meets minimum requirements to allow its associated municipality or nonprofit firefighting corporation to qualify for an annual fire state aid distribution, including allowing the State Fire Marshal to qualify fire departments which file the Minnesota Fire Incident Reporting System (MFIRS) report. Syntactically, it is unclear that the 1972 date reference actually modifies the State Fire Marshal equivalency determination standards, but more likely modifies the primary verb in the conditional clause “meets,” thereby providing both a deadline for potential fire department equipment and personnel improvements and a grace period for the implementation of those improvements. In either event, the date is obsolete or outdated and either should be reset or should be eliminated.
2. Appropriateness of Adding Fire Department Capability and Functioning Specifications on Equivalency. The policy issue is the appropriateness of adding to the State Fire Marshal equivalency determination the standards of fire department capability and functioning. The current language either provides no specification or limitation on what constitutes equivalency on one hand or permits only equivalency for each and every of the particular fire department personnel and equipment requirements set forth in Minnesota Statutes, Section 69.011, Subdivision 4, on the other hand. Neither result, either unbridled discretion for the State Fire Marshal or very narrowly drawn discretion for the State Fire Marshal, is probably desirable from a policy standpoint because the result would be discretion that is so vague that it provides fire departments with no true notice of expectations or standards or that it is so confining that it provides little margin for gaining a more global equivalency, such as substituting the Minnesota Fire Incident Reporting System (MFIRS) report. Presumably, the broad intent of the fire department personnel and equipment equivalency is to encourage with fire state aid eligibility the improvement of the capability and functioning of the fire department. The argument that appears to underlie the potential substitution of the MFIRS report for any fire department personnel and equipment minimum requirements is that any fire department that files the MFIRS report truly is a functioning fire department. The MFIRS report alone does not appear, however, to be a very clear measure of the capability of the fire department to actually suppress fires and perform whatever additional emergency activity demanded of the fire department.
3. Appropriateness of Changing the Rule Promulgation Authority to the State Fire Marshal. The policy issue is the appropriateness of replacing the Revenue Commissioner with the State Fire Marshal as the source for the promulgation of other fire department equipment and personnel minimum requirements for qualification for fire state aid. In 1969, when this provision was enacted, the rulemaking authority was vested with the Commissioner of Insurance (subsequently the Commissioner of Commerce following a government consolidation in the late 1970s) and was transferred to the Revenue Commissioner when the Statistical Tax Audit Section of the Department of Commerce was transferred to the Department of Revenue. Neither the Insurance/Commerce Commissioner nor the Revenue Commissioner are required to have any expertise in fire department operations as part of their job qualifications, but the State Fire Marshal presumably is required to have that kind of expertise and would be a more informed rule maker.

1.1 A bill for an act  
1.2 relating to retirement; fire state aid; revising the fire department qualification  
1.3 requirements for fire state aid; amending Minnesota Statutes 2004, section  
1.4 69.011, subdivision 4.

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

1.6 Section 1. Minnesota Statutes 2004, section 69.011, subdivision 4, is amended to read:

1.7 Subd. 4. **Qualification for state aid.** Any municipality in this state having for more  
1.8 than one year an organized fire department and officially established by the governing  
1.9 body of the municipality or an independent nonprofit fire fighting corporation created  
1.10 under the nonprofit corporation act of this state and operating exclusively for fire fighting  
1.11 purposes and providing retirement and relief benefits to its members or having a separate  
1.12 subsidiary incorporated firefighter's relief and pension association providing retirement  
1.13 and relief benefits may qualify to receive state aid if it meets the following minimum  
1.14 requirements or equivalent indication of a capable and functioning fire department as  
1.15 determined by the state fire marshal ~~by July 1, 1972:~~

1.16 ~~(a)~~ (1) ten paid or volunteer firefighters including a fire chief and assistant fire  
1.17 chief, and

1.18 ~~(b)~~ (2) regular scheduled meetings and frequent drills including instructions in fire  
1.19 fighting tactics and in the use, care, and operation of all fire apparatus and equipment, and

1.20 ~~(c)~~ (3) a motorized fire truck equipped with a motorized pump, 250 gallon or larger  
1.21 water tank, 300 feet of one inch or larger fire hose in two lines with combination spray  
1.22 and straight stream nozzles, five-gallon hand pumps-tank extinguisher or equivalent, dry  
1.23 chemical extinguisher or equivalent, ladders, extension ladders, pike poles, crow bars,  
1.24 axes, lanterns, fire coats, helmets, boots, and

- 2.1           (d) (4) apparatus suitably housed in a building of good construction with facilities  
2.2 for care of hose and equipment, and
- 2.3           (e) (5) a reliable and adequate method of receiving fire alarms by telephone or with  
2.4 electric siren and suitable means of sounding an alarm, and
- 2.5           (f) (6) if response is to be provided outside the corporate limits of the municipality  
2.6 wherein the fire department is located, the municipality has another piece of motorized  
2.7 apparatus to make the response, and
- 2.8           (g) (7) other requirements the ~~commissioner~~ state fire marshal establishes by rule.

2.9           Sec. 2. **EFFECTIVE DATE.**

2.10           Section 1 is effective on July 1, 2006.



TO: Volunteer Firefighter Relief Association Working Group  
FROM: Lawrence A. Martin, Executive Director *JAM*  
RE: Draft LCPR06-004; Revised Volunteer Firefighter Relief Association Report  
by the State Auditor  
DATE: January 9, 2006

### Introduction

Draft LCPR06-004 amends Minnesota Statutes, Section 6.72, the requirement that the State Auditor report to the Legislature on volunteer firefighter relief associations, by updating the language and structure of the provision and by eliminating the specific requirements for the aggregation of sub-groupings of the data.

### Background on the State Auditor's Report on Volunteer Firefighter Relief Associations

Prior to 1981, there was no regular compilation of financial and related information on volunteer firefighter relief associations. For 1969, for 1974, and for 1977, the staff of the Legislative Commission on Pensions and Retirement attempted to compile information on the overall financial condition of the State's volunteer firefighter relief associations, but no other regular sources of general information on volunteer firefighter relief associations was available at the time.

The view of volunteer firefighter relief associations by the Legislature before 1981 was erratic and incomplete, provided solely by the information reviewed by the Legislative Commission on Pensions and Retirement for the dozen or two dozen volunteer firefighter relief association special legislation proposals processed each legislative session. Before the creation of the flexible service pension maximums in 1979 (Laws 1979, Chapter 201), when lump sum volunteer firefighter relief association service pensions were limited to \$300 per year of service credit and monthly benefit volunteer firefighter relief association service pensions were limited to \$2 per month per year of service credit, volunteer firefighter relief associations with more resources frequently sought special legislation in excess of the general limits (see Minnesota Statutes 1978, Section 69.06) and were reviewed by the Commission.

Laws 1979, Chapter 201, Section 20, coded as Minnesota Statutes, Section 6.72, replaced the chaotic and incomplete view of the Legislature provided by processing special legislation for about three percent of the total number of volunteer firefighter relief associations with periodic reports by the State Auditor based on that agency's review of volunteer firefighter relief association financial reporting and determination of eligibility for fire state aid. In addition to providing the Legislature with a better view of the financial health of volunteer firefighter relief associations after reducing legislative involvement in approving service pension amounts, the periodic reporting was also intended to ensure that the State Auditor's office engaged in some minimum level of scrutiny of volunteer firefighter relief association financial reporting. The 1974 and 1977 Commission staff compilations indicated several "prima facie" financial reporting problems and statutory compliance problems which presumably would be reduced or eliminated upon engaging in the mechanical operation of preparing formal reporting.

### Discussion and Analysis

Draft LCPR06-004 makes the first substantive revision in the reporting requirement of the State Auditor's office about the financial condition of volunteer firefighter relief associations, requiring the reporting annually rather than biennially and allowing the State Auditor discretion over the formatting and presentation of the report.

The proposed changes contained in Draft LCPR06-004 will raise several policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Usefulness of the Formal Reporting on Volunteer Firefighter Relief Associations. The policy issue is the extent to which the State Auditor's formal reporting on volunteer firefighter relief associations serves any useful purpose for the volunteer firefighting community and the municipal community. The Legislative Commission on Pensions and Retirement is the primary consumer of the information currently contained in the volunteer firefighter relief association compilation report. Since the State

Auditor's office is moving steadily towards initial volunteer firefighter relief association financial reporting in a computerized manner, the volunteer firefighter relief association financial data needed by the Commission undoubtedly will be available from the State Auditor's office absent the requirements of Minnesota Statutes, Section 6.72, so the formal reporting requirement for the State Auditor could be eliminated if the report has little or no value in the volunteer fire community or the municipal community.

2. Appropriateness of Making the Volunteer Firefighter Relief Association Compilation Reporting Requirement Annual. The policy issue is the appropriateness of changing the Minnesota Statutes, Section 6.72 volunteer firefighter relief association financial reporting requirement of the State Auditor to an annual report from a biennial report. Although the statutory requirement is currently biennial, the actual reporting by the State Auditor historically has been annual, so the change will not add any increased reporting frequency in fact to burden the office of the State Auditor.
3. Appropriateness of Providing Discretion to the State Auditor over the Report Organization and Formatting. The policy issue is the appropriateness of reducing the specificity of the regulation of the volunteer firefighter relief association financial results compilation reporting under Minnesota Statutes, Section 6.72, and allowing discretion to the State Auditor over the manner and organization of the compilation reporting. Initially, the specificity of Minnesota Statutes, Section 6.72, reflected initial opposition by the State Auditor's office to undertake the reporting obligation and the need to have the new State Auditor's report provide comparable data to the 1974 and 1977 Commission staff compilations. Over time, the State Auditor's office has become committed to preparing the compilation report and the advent of readily available computerized data processing over hand processing has eliminated Commission staff comparability concerns. Consequently, specificity about the manner and formatting of the compilation reporting is now essentially unnecessary.

1.1 A bill for an act  
 1.2 relating to retirement; volunteer firefighters' relief associations; modifying  
 1.3 various requirements for a report to the legislature by the state auditor; amending  
 1.4 Minnesota Statutes 2004, section 6.72.

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

1.6 Section 1. Minnesota Statutes 2004, section 6.72, is amended to read:

1.7 **6.72 STATE AUDITOR; REPORT TO LEGISLATURE ON VOLUNTEER**  
 1.8 **FIREFIGHTERS' RELIEF ASSOCIATIONS.**

1.9 Subdivision 1. **Reporting requirements.** ~~Commencing November 15, 1981, and~~  
 1.10 ~~every two years thereafter~~(a) Annually, the state auditor shall report to the legislature on  
 1.11 the general financial condition of the various volunteer firefighters' relief associations in  
 1.12 the state as of December 31 of the year preceding the filing of the report.

1.13 (b) Two copies of the report shall be filed with the executive director of the  
 1.14 Legislative Commission on Pensions and Retirement and ten copies of the report shall be  
 1.15 filed with the director of the Legislative Reference Library.

1.16 Subd. 2. **Contents of report.** The report ~~shall~~must include ~~the aggregate totals~~ for  
 1.17 all volunteer firefighters' relief associations directly associated with the municipal fire  
 1.18 departments and all volunteer firefighters' relief associations subsidiary to independent  
 1.19 nonprofit firefighting corporations, ~~the aggregate totals by the various benefit types and the~~  
 1.20 ~~individual results for each volunteer firefighters' relief association listed by various benefit~~  
 1.21 ~~types specified in subdivision 3.~~ The following items shall be reported in each instance:

- 1.22 (1) amount of accrued liability,  
 1.23 (2) amount of the assets of the special fund,  
 1.24 (3) amount of surplus or unfunded accrued liability,

- 2.1 (4) funding ratio,
- 2.2 (5) amount of annual accruing liability or normal cost,
- 2.3 (6) amount of annual required contribution to amortize the unfunded accrued
- 2.4 liability,
- 2.5 (7) amount of total required contribution,
- 2.6 (8) amount of fire state aid and supplemental fire state aid,
- 2.7 (9) amount of any municipal contributions,
- 2.8 (10) amount of administrative expenses,
- 2.9 (11) amount of service pension disbursements,
- 2.10 (12) amount of other retirement benefit disbursements,
- 2.11 (13) number of active members,
- 2.12 (14) number of retired members,
- 2.13 (15) number of deferred members,
- 2.14 (16) amount of fidelity bond of secretary and treasurer,
- 2.15 (17) amount of lump sum or monthly service pension accrued per year of service
- 2.16 credit,
- 2.17 (18) minimum retirement age required for commencement of a service pension,
- 2.18 (19) minimum years of active service credit required for commencement of service
- 2.19 pension,
- 2.20 (20) minimum years of active membership credit required for commencement of
- 2.21 service pension,
- 2.22 (21) type and amount of other retirement benefits.
- 2.23 Subd. 3. **Benefit categories**~~Report format~~. For purposes of compiling The report
- 2.24 required by this section, the various benefit types shall be as follows:
- 2.25 ~~(1) volunteer firefighters' relief associations paying a lump sum service pension of:~~
- 2.26 ~~(i) less than \$50 per year of service,~~
- 2.27 ~~(ii) \$50 or more, but less than \$100 per year of service,~~
- 2.28 ~~(iii) \$100 or more, but less than \$200 per year of service,~~
- 2.29 ~~(iv) \$200 or more, but less than \$300 per year of service,~~
- 2.30 ~~(v) \$300 or more per year of service;~~
- 2.31 ~~(2) volunteer firefighters' relief associations paying a monthly benefit service~~
- 2.32 ~~pension of:~~
- 2.33 ~~(i) less than \$2 per month per year of service,~~
- 2.34 ~~(ii) \$2 or more per month per year of service;~~
- 2.35 ~~(3) volunteer firefighters' relief associations paying a defined contribution service~~
- 2.36 ~~pension;~~

3.1           ~~(4) volunteer firefighters' relief associations paying no service pension~~ must be  
3.2           organized in a manner that the state auditor determines to provide fair representation of  
3.3           the condition of the various volunteer firefighters' relief associations.

3.4           Sec. 2. **EFFECTIVE DATE.**

3.5           Section 1 is effective on July 1, 2006.



TO: Volunteer Firefighter Relief Association Working Group  
FROM: Lawrence A. Martin, Executive Director *JAM*  
RE: Draft LCPR06-003; Volunteer Firefighter Relief Association Death Benefit Authorization  
DATE: January 9, 2006

#### Summary of Proposed Legislation

Draft LCPR06-003 amends Minnesota Statutes, Section 424A.05, Subdivision 3, the specification of the authorized disbursements from a volunteer firefighter relief association special fund, by adding the authorization of the payment from the special fund of a death benefit to the estate of a deceased firefighter if no surviving spouse, surviving minor children, or designated beneficiary exist.

#### Background Information on the Regulation of Volunteer Firefighter Relief Association Ancillary Benefits

Minnesota Statutes, Section 424A.02, Subdivision 9, places limits on ancillary retirement benefit coverage. Ancillary benefits are those benefits provided by a volunteer firefighter relief association other than the service pension, such as disability benefits, death benefits, or survivor benefits. In 1873, with the creation of fire state aid, municipalities were permitted to pay relief to disabled firefighters and to survivors of deceased firefighters from fire state aid if no relief association is located in the municipality. In 1909, firefighter relief associations were specifically permitted to make payments for the relief of sick, injured, and disabled firefighters and to make payments to widows and orphans of deceased firefighters. The term "widow" was not defined until 1937, requiring three years of marriage before the occurrence of death and dependency for eligibility. The provision became Minnesota Statutes 1978, Section 424.31. The limitations are needed to protect the financial solvency regulation of volunteer firefighter relief associations, which is built around determining the accrued liability and financial requirements for the level of the service pension coverage provided by the volunteer firefighter relief association. The limitations are:

1. No Post-Retirement Benefit Beyond the Lump Sum Service Pension. Volunteer firefighter relief associations that provide lump sum service pensions are prohibited from paying any additional benefit to a retired firefighter or on behalf of a retired firefighter once payment of the service pension commences; and
2. Maximum Ancillary Benefit Available. All volunteer firefighter relief associations are limited in the payment of pre-retirement and post-retirement ancillary benefits to the amount of the accrued service pension of the volunteer firefighter, except that the survivor benefit payable on behalf of a deceased short service firefighter may be based on a five years of service accrued benefit if that produces a larger accrued service pension amount.

This ancillary benefit provision, Section 424A.02, Subdivision 9, when enacted in 1979, was an effort to ensure that the liabilities for all benefits offered by a given plan, both the service pensions and ancillary benefits, were captured in the process used to determine the funding requirements of the plans. The method for computing the plan liabilities captures the liabilities for a member's service pension, as that accrues over time as the member provides firefighting services covered by the relief association. If the member survives to collect a service pension, the funding that has been received by the association relating to this individual should be sufficient to cover the cost (total liability) of the service pension. If death occurs prior to drawing a service annuity, the service annuity is not payable. Depending upon the bylaws of the association, a surviving spouse annuity may be payable as an ancillary benefit, but not to exceed the value of the earned service pension. This would assure that the cost of the ancillary benefit has been funded through the funding received to support the service pension that had been accruing to the now-deceased firefighter.

#### Background Information on Authorized Special Fund Disbursements

Minnesota Statutes, Section 424A.05, governs the special funds of volunteer firefighter relief associations, including the disbursements authorized from volunteer firefighter relief association special funds.

Minnesota Statutes, Section 424A.05, enacted in 1979, replaced Minnesota Statutes 1978, Section 424.31, in part. Minnesota Statutes 1978, Section 424.31, with respect to authorized volunteer firefighter relief association special fund disbursements, limited expenditures from the volunteer firefighter relief association special fund to the following:

- (1) For the relief of sick, injured, and disabled members of they fire department in the city;
- (2) For the payment of pensions to disabled firefighters and the surviving spouses and orphans of firefighters;
- (3) For the payment of pensions to retired firefighters under the laws of the state;
- (4) For the payment of the fees, dues, and assessments in the Minnesota State Fire Department Association, and in the Volunteer Firemen's Benefit Association of Minnesota so as to entitle the members of any qualified fire department to membership in and benefits of such state association;
- (5) For the payment of such death or funeral benefits as may be from time to time stipulated in the bylaws of the relief association; and
- (6) For the payment of necessary expenses of administering the relief association, including the salaries of the president, secretary, and treasurer.

Laws 1979, Chapter 201, Section 15, Subdivision 3, coded as Minnesota Statutes 1979 Supplement, Section 424A.05, Subdivision 3, limited the expenditures payable from a volunteer firefighter relief association special fund to the following:

- (1) For the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;
- (2) For the payment of temporary or permanent disability retirement benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (3) For the payment of survivor retirement benefits to surviving spouses and surviving children 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;
- (4) For the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;
- (5) For the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the State Volunteer Firefighters Benefit Association in order to entitled relief association members to membership in and the benefits of these state associations; and
- (6) For the payment of administrative expenses of the relief association as authorized pursuant to Section 69.80.

The only substantive amendment to Minnesota Statutes, Section 424A.05, Subdivision 3, occurred in 2000 (Laws 2000, Chapter 461, Article 15, Section 11), based primarily on volunteer firefighter relief association changes suggested by the Minnesota Area Relief Association Coalition (MARAC) and recommended by the Fire Subcommittee of the Legislative Commission on Pensions and Retirement. Laws 2000, Chapter 461, Article 15, Section 11, made two substantive changes, allowing the payment of a survivor benefit to a designated beneficiary if the designated beneficiary is a natural person and if there is no surviving spouse or surviving child, and allowing the payment of MARAC dues.

#### Discussion and Analysis

Draft LCPR06-003 permits the payment of a death benefit to the estate of a deceased active firefighter if there is no surviving spouse or surviving child and if there is no designated beneficiary.

The draft proposed legislation will raise several pension and related policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, which are as follows:

1. Unclear Need for Estate Payment Authority Beyond Existing Designated Beneficiary Payment Authority. The policy issue is the appropriateness of the potential change if deceased active firefighters who do not have a surviving spouse and who do not have one or more surviving minor children can have a survivor benefit paid to a designated beneficiary. The 2000 addition of the designated beneficiary authority, sponsored by MARAC, presumably was intended to provide a viable means for a survivor benefit to be paid on behalf of a deceased active firefighter without a spouse or minor children. The only clear advantage provided by the draft proposed legislation would be to avoid a benefit loss on behalf of an active firefighter who died without a surviving spouse or minor surviving child and who neglected to designate a beneficiary. It would not repair the situation where the firefighter failed to update the beneficiary designation appropriately prior to death and an unintended person eventually receives the survivor benefit.
2. Appropriateness of Making Benefit Payments to an Estate. The policy issue is the appropriateness of allowing volunteer firefighter relief associations to pay benefits to an estate of a deceased active firefighter without a surviving spouse, a surviving minor child, or a designated beneficiary. Among Minnesota public pension plans, retirement benefits are generally not payable to estates, including post-retirement adjustments for plan members who substantially qualified for the adjustment, but died prior to the actual payment date. Payments to an individual, such as a spouse, child, or beneficiary, avoids the procedural entanglements of state probate laws and the loss of benefits from the payment of estate administrative expenses.
3. Appropriateness of Encouraging Casualty Benefits From Relief Association Rather Than Insurance. The policy issue is the appropriateness of encouraging the provision of casualty (non-age and service) retirement benefits from a volunteer firefighter relief association rather than utilizing insurance. Retirement plans, including volunteer firefighter relief associations, are really highly specialized insurance arrangements. Volunteer firefighter relief associations, in particular, are operated with a minimum of regular and systematic regulation and oversight as insurance companies would have from the Department of Commerce, but can take on very uncertain casualty risks like death benefits. It would be better practice to permit volunteer firefighter relief associations to provide this type of casualty coverage through the purchase of insurance policies rather than the direct undertaking of this liability. Under Minnesota Statutes, Section 69.772, the primary statute governing volunteer firefighter relief association funding requirements, a volunteer firefighter relief association that provides no casualty coverage will have the same financial requirements as a volunteer firefighter relief association that does provide casualty coverage. Even if the casualty coverage is no greater than the service pension accrued, the payment date for the benefit changes with the addition of casualty coverage and so does the potential liability. To insure that no volunteer firefighter relief association suffers a financial disaster from providing casualty coverage, some surcharge or liability loading figure may be needed to be added to insure that additional casualty reserves are amassed. That additional surcharge or loading will, however, complicate the financial requirement determination procedures of volunteer firefighter relief associations and will add an increased workload to volunteer firefighter relief association secretaries and to the Pension Oversight Division of the State Auditor's Office.

1.1 A bill for an act  
 1.2 relating to retirement; volunteer firefighter relief associations; clarifying authority  
 1.3 to pay death benefits from the special fund; amending Minnesota Statutes 2004,  
 1.4 section 424A.05, subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2004, section 424A.05, subdivision 3, is amended to  
 1.7 read:

1.8 Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements  
 1.9 from the special fund are not permitted to be made for any purpose other than one of  
 1.10 the following:

1.11 (1) for the payment of service pensions to retired members of the relief association if  
 1.12 authorized and paid pursuant to law and the bylaws governing the relief association;

1.13 (2) for the payment of temporary or permanent disability benefits to disabled  
 1.14 members of the relief association if authorized and paid pursuant to law and specified in  
 1.15 amount in the bylaws governing the relief association;

1.16 (3) for the payment of survivor benefits to surviving spouses and surviving children,  
 1.17 or if none, to designated beneficiaries, of deceased members of the relief association,  
 1.18 and if survivors and if no designated beneficiary, for the payment of a death benefit to  
 1.19 the estate of the deceased active firefighter, if authorized by and paid pursuant to law and  
 1.20 specified in amount in the bylaws governing the relief association;

1.21 (4) for the payment of any funeral benefits to the surviving spouse, or if no surviving  
 1.22 spouse, the estate, of the deceased member of the relief association if authorized by law  
 1.23 and specified in amount in the bylaws governing the relief association;

2.1 (5) for the payment of the fees, dues and assessments to the Minnesota State Fire  
2.2 Department Association, to the Minnesota Area Relief Association Coalition, and to  
2.3 the state Volunteer Firefighters Benefit Association in order to entitle relief association  
2.4 members to membership in and the benefits of these associations or organizations; and

2.5 (6) for the payment of administrative expenses of the relief association as authorized  
2.6 pursuant to section 69.80.

2.7 (b) For purposes of this chapter, a designated beneficiary must be a natural person.

2.8 Sec. 2. **EFFECTIVE DATE.**

2.9 Section 1 is effective on July 1, 2006.