



January 2009

Pension Division Newsletter

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Working Group Update

The 2008-2009 Volunteer Fire Relief Association Working Group held its final meeting on January 27. The Group decided to hold over topics concerning exchange-traded fund investments and the lump sum deficit amortization period so that additional research could be performed. The Working Group reviewed and approved draft legislation that was adopted in concept at previous meetings. The Working Group bill that will be introduced this session includes proposals that should help fire departments, especially in Greater Minnesota, that are having a difficult time recruiting and retaining volunteers. One proposal would eliminate penalties on resuming active service with a volunteer fire department after being paid a service pension, with the relief association bylaws defining conditions on the return to service. The proposal would also give greater flexibility to relief associations to define in their bylaws conditions on members who return to active service after a break in service or a leave of absence.

Other proposals to be included in the Working Group bill include: allowing relief associations to define in their bylaws what constitutes a month of service; providing an exception for minors who are members of a youth, civic or educational organization or program who participate with uninterrupted adult supervision to serve with the fire department (e.g. Boy Scout Explorer Programs); and authorizing special fund assets to be used to purchase insurance from the Volunteer Firefighters Benefit Association, or an insurance company licensed by the State of Minnesota offering casualty insurance.

The Working Group bill also contains some technical changes to state law that clarify definitions and reporting deadlines. A complete list of the Working Group recommendations will be provided with our February Pension Newsletter, with a link to the bill text. We will keep you updated on the bill's progress as it makes its way through the legislative process. If you have questions regarding the Working Group proposals please contact Rose Hennessy Allen at (651) 296-5985 or Rose.Hennessy-Allen@state.mn.us.

2008 Reporting Year Forms

The 2008 Reporting Year forms will be released and available for completion in about a week. An e-mail and letter will be sent to each relief association once the forms are available, and notices will also be provided in our February Pension Newsletter and E-Update.

Please remember to notify the Pension Division when new relief association officers are elected or your contact information changes. Out-of-date contact records could create delays in receiving important correspondence.

Market Concerns – FAQs

The Pension Division has received a number of questions from relief association trustees and municipal representatives in response to the recent market volatility. A few of the questions and answers that we hope you will find helpful are provided below.

Q: Our state fire aid for 2008 decreased. Why?

A: The total 2008 state fire aid decreased by about 14 percent from the prior year. The decrease is due in part to fewer taxes collected on insurance premiums and in part to prior year adjustments. The Department of Revenue conducted research and determined that insurance companies in the past overstated the amount of insurance premiums that actually dealt with fire insurance. Representatives within the Department of Revenue met to determine how to best adjust for the past reporting errors and decided to make adjustments to the 2007, 2008, and 2009 state fire aid amounts.

Q: The State of Minnesota is facing a large budget deficit. Can the Legislature take our state fire aid to help fill the budget gap?

A: State fire aid is a dedicated aid under state law and must be used for pension purposes if the firefighters are covered by a pension plan. Any changes to the calculation and distribution of state fire aid would require changes to state law. We are not aware of any legislation at this time that would attempt to change the state fire aid calculation and payment process. It also is our understanding that the Governor's budget proposal includes no cuts to pension aid.

Most pension-related legislation is posted on the website for the Legislative Commission on Pensions and Retirement (LCPR). You can track pending pension bills on the LCPR website at: <http://www.commissions.leg.state.mn.us/lcpr/billlog.htm> .

Q: Can our affiliated municipality choose to decrease our relief association's benefit level?

A: Municipalities do not have authority to unilaterally change your relief association's benefit level. Benefit level changes must first be discussed and adopted by your relief association, in keeping with your bylaw amendment procedures and Open Meeting Law requirements. Then, your relief association should seek municipal approval of the benefit level change. Relief associations are only allowed to change their benefit level without municipal approval under limited circumstances. The city council or town board can choose to approve the benefit level change or can choose not to approve the change.

Q: Our affiliated municipality may be required to make a contribution to our relief association. What happens if the municipality doesn't pay the required contribution amount?

A: If the benefit level that your relief association is operating at was properly established and approved by your affiliated municipality, the municipality is required under state law to make any contributions that become due at that benefit level. If the municipality does not include the full amount of the minimum municipal obligation in its levy for any year, the officers of your relief association must certify that amount to the county auditor, who will spread a levy on the taxable property of the municipality for the amount.

Please note that benefit level changes must be approved by the board of the independent nonprofit firefighting corporation for those relief associations that are affiliated with an independent corporation, rather than a municipal fire department. In addition, the independent

nonprofit firefighting corporation is responsible for making any required contributions to the relief association.

Fiduciary Reminders

During these tough economic times we want to remind relief association trustees of their fiduciary duties, especially as they relate to investment activities. First, each trustee of your relief association board is a fiduciary. State law lists fiduciary activities, which include the investment of plan assets and the selection of financial institutions and investment products. When presented with investment proposals, keep in mind the old adage: “If it sounds too good to be true, it probably is.” Relief association trustees should ask questions of investment professionals and monitor investment performance.

As fiduciaries, each trustee on your relief association board owes a duty to the members that investments are made in accordance with state law and your plan documents (i.e., bylaws and investment policy). Hiring a broker or investment advisor does not relieve your board members of their fiduciary responsibilities.

State law requires that fiduciaries act in good faith and exercise the degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets. Fiduciaries have a fiduciary duty not only to the members of the plan, but also under state statute to the taxpayers and the State of Minnesota.

When markets are volatile some investors can be more easily persuaded to make choices, such as buying or selling securities, which are not in the investor’s best interest. “Churning,” the practice of excessive trading by a broker seeking to maximize commissions regardless of the client’s best interest, may also be harder to detect when markets are fluctuating.

If you have questions please contact us:

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