

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor
Tuesday, December 13, 2011
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft November 16, 2011 Meeting Minutes
- III. Review of Draft Language for Technical Changes**
Exhibit B.
- IV. Discussion of Deferred Service Pension Changes**
Exhibit C.
- V. Discussion of IRS Tax-Exempt Issues**
- VI. Other Business**
- VII. Next Meeting**
Tuesday, January 17, 2012
11 a.m. to 1 p.m.
Office of the State Auditor
- VIII. Adjournment**

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Wednesday, November 16, 2011

11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)
Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
John King, Minnesota State Fire Department Association Representative
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)

Members Excused

Tim Simon, Elk River City Finance Director
Steven Wallner, Watertown City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Others Present

Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Bridget Borell, Abdo, Eick & Meyers Representative
Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Jim Jensen, Pension Analyst
Deb Jezierski, HLB Tautges Redpath Representative
Brian McKnight, Wells Fargo Advisors Representative
Kent Zoya, Inver Grove Heights Fire Relief Association Representative

The following motions were duly made, seconded and approved:

RESOLVED to approve the January 25, 2011, Working Group Meeting Minutes; and
RESOLVED to table discussion of the technical change that clarifies eligibility to invest using the expanded list of authorized investment securities is based on special fund assets only.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Introductions

The Working Group members and others in attendance introduced themselves and identified the community that they are representing.

III. Review and Approval of Working Group Meeting Minutes

The members reviewed the January 25, 2011, meeting minutes that had been provided in advance. Jaeger made a motion to adopt the meeting minutes. King seconded the motion that was adopted unanimously. Anderson and Hemstad abstained as they were not in attendance at the January 25 meeting.

IV. Working Group Process Discussion

- Working Group Meeting Schedule

The members reviewed the Working Group meeting schedule and agreed that additional meetings could be scheduled in January, if needed.

- Working Group Purpose Statement

The members reviewed the Working Group Purpose Statement, which is the same as the Statement agreed upon last year. No changes to the Purpose Statement were proposed.

- Working Group Process Statement

The members reviewed the Working Group Process Statement, which is the same as the Statement agreed upon last year. The members agreed that unanimous consent be required for a proposal to move forward. A topic can be reconsidered if there's only one dissenting member. Auditor Otto encouraged the members to consider things that could be done without a legislative change to assist relief associations, like simplifications to pension reporting forms and providing additional educational materials.

- Working Group Membership List

The members reviewed the Working Group Membership List and forwarded contact information changes to Hennessy Allen. Auditor Otto reminded the members that the Membership List is posted on the Office of the State Auditor's website.

V. Discussion of Working Group Topic Suggestions

Auditor Otto explained that the Office of the State Auditor has kept a running list of topic suggestions received from relief association trustees and municipal officials. Most of the topic suggestions are several years old, and may no longer be applicable. Therefore, Auditor Otto suggested that the Working Group start with a fresh list this year. The members and others in attendance shared their suggestions. Topics suggested include the following:

- Consider lowering the threshold at which an audit becomes required;
- Clean-up the list of authorized special fund administrative expenses, and consider including fees to the Minnesota State Fire Chief's Association as authorized expenses;
- Review whether relief association board meetings may be held on an election day;

- Reconsider the 60-day break in service requirement under the new “return to service” law;
- Discuss issues related to IRS 990 forms;
- Review whether the Office of the State Auditor’s Reporting Form and Investment Disclosure Report Form could be combined;
- Discuss combining audit bids for a relief association and its affiliated municipality to obtain economies of scale;
- Consider decreasing the frequency that an actuarial valuation must be performed for relief associations that have frozen their monthly-benefit option;
- Consider changing the percent of surplus amount that is used in the Maximum Benefit Worksheet calculation;
- Consider allowing charitable gambling funds to be deposited into a relief association’s special fund; and
- Discuss whether relief associations could implement a deferred interest rate decrease without being required to obtain municipal ratification.

VI. Review of Draft Language for Technical Changes

The members reviewed draft language for three technical changes that the Office of the State Auditor has proposed. Technical Change #1 clarifies that the tests to determine whether a relief association is eligible to invest using the expanded list of authorized investment securities is based just on special fund assets. Martin suggested that the term “pension fund” be used rather than “special fund,” and that the definition of “pension fund” be changed for volunteer fire relief associations so it means the special fund. Martin explained that these changes would work better since not all of the pension plans governed by this statute have a special fund. Anderson made a motion to table this item until the next Working Group meeting, when the members will have revised draft language to review. Hemstad seconded the motion that was adopted unanimously.

Technical Change #2 is a purely technical change that removes out-dated references to the Minneapolis Teachers Retirement Fund Association and the Minneapolis Employees Retirement Fund.

Technical Change #3 removed duplicative language. When Chapter 424A was updated two years ago, language was moved to section 424A.015, but was not removed from section 424A.02. The draft language removes the duplicative language in section 424A.02.

VII. Other Business

Auditor Otto provided an update on the general records retention schedule that the Working Group worked on last year. Auditor Otto explained that because relief associations are defined as “governmental entities” their records are seen as “government records.” Government records can only be destroyed as allowed in an approved records retention schedule or upon the approval of the Records Disposition Panel. This means

that relief associations currently don't have authority to destroy any records unless they have gotten approval from the Records Disposition Panel. Ganfield, on behalf of the Apple Valley Fire Relief Association, submitted the schedule to the Records Disposition Panel in August 2011. The schedule is being circulated among the Panel members for their review. Auditor Otto said that the Office of the State Auditor will inform relief associations through the Pension Newsletter and E-update once the schedule is approved. Educational materials for using the schedule will also be provided on the website.

VIII. Next Meeting

Tuesday, December 13, 2011

11 a.m. to 1 p.m.

Office of the State Auditor

IX. Adjournment

The meeting was adjourned at 12:45.

Exhibit B

Technical Changes

Technical Change #2:

356.219 DISCLOSURE OF PUBLIC PENSION PLAN INVESTMENT PORTFOLIO AND PERFORMANCE INFORMATION.

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Subd. 8. Timing of reports.

(a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c).

(b) For the ~~Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, the University of Minnesota faculty supplemental retirement plan, and the applicable administrators for the University of Minnesota faculty retirement plan and the individual retirement account plans under chapters 354B and 354D,~~ the information required under this section must be submitted to the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

Technical Change #3:

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

Subdivision 1. Authorization.

(a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service as the bylaws or articles of incorporation of the relief association so provide.

The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

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

~~(d) No relief association as defined in section 424A.001, subdivision 4, may pay a defined benefit service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:~~

~~(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;~~

~~(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and~~

~~(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.~~

1.1 Sec. Minnesota Statutes 2010, section 356A.01, subdivision 19, is amended to read:

1.2 Subd. 19. **Pension fund.** "Pension fund" means the assets amassed and held in a
1.3 pension plan, other than the general fund, as reserves for present and future payment of
1.4 benefits and administrative expenses. For a retirement plan governed by section 69.77 or
1.5 by chapter 424A, the term means the relief association special fund.

1.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.7 Sec. Minnesota Statutes 2010, section 356A.06, subdivision 6, is amended to read:

1.8 Subd. 6. **Limited list of authorized investment securities.** (a) Except to the
1.9 extent otherwise authorized by law, a covered pension plan may invest its assets only in
1.10 investment securities authorized by this subdivision if the plan does not:

1.11 (1) have pension fund assets with a book value in excess of \$1,000,000;

1.12 (2) use the services of an investment advisor registered with the Securities and
1.13 Exchange Commission in accordance with the Investment Advisers Act of 1940, or
1.14 registered as an investment advisor in accordance with sections 80A.58, and 80A.60, for
1.15 the investment of at least 60 percent of its pension fund assets, calculated on book value;

1.16 (3) use the services of the State Board of Investment for the investment of at least 60
1.17 percent of its pension fund assets, calculated on book value; or

1.18 (4) use a combination of the services of an investment advisor meeting the
1.19 requirements of clause (2) and the services of the State Board of Investment for the
1.20 investment of at least 75 percent of its pension fund assets, calculated on book value.

1.21 (b) Investment securities authorized for a pension plan covered by this subdivision
1.22 are:

1.23 (1) certificates of deposit issued, to the extent of available insurance or
1.24 collateralization, by a financial institution that is a member of the Federal Deposit
1.25 Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured
1.26 by the National Credit Union Administration, or is authorized to do business in this state
1.27 and has deposited with the chief administrative officer of the plan a sufficient amount of
1.28 marketable securities as collateral in accordance with section 118A.03;

1.29 (2) savings accounts, to the extent of available insurance, with a financial institution
1.30 that is a member of the Federal Deposit Insurance Corporation or the Federal Savings
1.31 and Loan Insurance Corporation;

1.32 (3) governmental obligations, including bonds, notes, bills, or other fixed
1.33 obligations, issued by the United States, an agency or instrumentality of the United States,
1.34 an organization established and regulated by an act of Congress or by a state, state agency
1.35 or instrumentality, municipality, or other governmental or political subdivision that:

2.1 (i) for the obligation in question, issues an obligation that equals or exceeds the
2.2 stated investment yield of debt securities not exempt from federal income taxation and of
2.3 comparable quality;

2.4 (ii) for an obligation that is a revenue bond, has been completely self-supporting
2.5 for the last five years; and

2.6 (iii) for an obligation other than a revenue bond, has issued an obligation backed by
2.7 the full faith and credit of the applicable taxing jurisdiction and has not been in default on
2.8 the payment of principal or interest on the obligation in question or any other nonrevenue
2.9 bond obligation during the preceding ten years;

2.10 (4) corporate obligations, including bonds, notes, debentures, or other regularly
2.11 issued and readily marketable evidences of indebtedness issued by a corporation organized
2.12 under the laws of any state that during the preceding five years has had on average
2.13 annual net pretax earnings at least 50 percent greater than the annual interest charges
2.14 and principal payments on the total issued debt of the corporation during that period
2.15 and that, for the obligation in question, has issued an obligation rated in one of the top
2.16 three quality categories by Moody's Investors Service, Incorporated, or Standard and
2.17 Poor's Corporation; and

2.18 (5) shares in an open-end investment company registered under the federal
2.19 Investment Company Act of 1940, if the portfolio investments of the company are limited
2.20 to investments that meet the requirements of clauses (1) to (4).

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Exhibit C

Deferred Service Pension Changes

Issues

1. Sometimes members who separate from active service and membership after reaching age 50 choose not to immediately apply for their service pension distribution. The current language in paragraph (a), clause (3) below, appears to limit entitlement to a deferred service pension to those members who separate before reaching age 50 (or the relief association's minimum retirement age).

2. Language is needed to make it clear that firefighters who are employed subsequent to retirement to perform firefighting duties on a full-time basis may be deferred members of the volunteer fire relief association if they separate from active volunteer service and membership before reaching age 50 (or the relief association's minimum retirement age).

3. Relief associations electing to offer interest or additional investment performance to deferred members must specify as such in their bylaws. Most relief associations don't clearly specify in their bylaws, however, exactly how the interest or additional investment performance will be calculated and credited to deferred member accounts or benefits.

For example, a relief association may specify in its bylaws that it will pay interest to deferred members at a rate up to five percent, as set by the association's board of trustees. The bylaws typically don't specify, however, whether this interest will be credited for each completed month of deferral, for each completed calendar year of deferral, or for the entire period of deferral.

Examples

Member Separates February 15	Months	Years	Full Period
Interest is Payable:	Beginning March 1, through the end of the month immediately preceding the pension distribution	Beginning the next January 1, through the December 31 immediately preceding the pension distribution	Beginning February 15, through the day on which the member makes an application for the pension distribution

Defined Contribution Plans

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

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Subd. 6. **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 defined contribution relief association 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:

(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; or

(2) the 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.

(d) 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.

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Defined Benefit Plans

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

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

(1) has completed the lesser of either 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 defined benefit 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; or

(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.

(d) Interest under paragraph (c), clause (2), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

(e) 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.

(f) 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.

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