

Volunteer Fire Relief Association Defined Contribution Plan Sub-Group

Office of the State Auditor
Thursday, September 18, 2008
11 a.m. to 1 p.m.

Members Present

Jim Adams, West Metro Fire Relief Association Secretary
Wayne Anderson, Coon Rapids Fire Department Inspector
Ron Johnson, Maple Grove Fire Relief Association Treasurer
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee
Marty Scheerer, Edina Fire Department Chief

Members Excused

Gordon Skjerven, Mendota Heights Fire Relief Association Treasurer
Gene VanOverbeke, City of Eagan Director of Administrative Services

Others Present

Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst

The following motions were duly made, seconded and approved:

- RESOLVED To adopt the August 19, 2008 Meeting Minutes.
- RESOLVED To amend the August 19, 2008 resolution to forward to the Working Group for consideration the issue of whether paying interest to deferred members should remain voluntary.
- RESOLVED To delete lines 1.9 and 1.10 from the 7-A amendment, which removes recurring phrases in the Separate from Active Service definition.
- RESOLVED To adopt lines 1.11 through 1.14 of the 7-A amendment, which is language that precludes minors from being members of a relief association.
- RESOLVED To forward to the Working Group for consideration the issue of whether the current statutory prohibition on employing minors should be changed to accommodate explorer programs.
- RESOLVED To delete line 1.5 from the 7-A amendment and to adopt lines 1.6 through 1.8. The deleted language pertains to the exclusion for explorer programs, while the adopted language moves the prohibition on employing minors to a new section.
- RESOLVED To delete lines 1.15 to 1.18 of the 7-A amendment, which removes recurring phrases in the fire prevention personnel provision.
- RESOLVED To adopt line 1.19 of the 7-A amendment, which changes the section heading for Chapter 424A.015.

- RESOLVED To delete lines 1.21 and 1.22 from the 7-A amendment, which seeks to clarify the reduced service pension language for defined contribution plans.
- RESOLVED To adopt line 1.23 of the 7-A amendment, which clarifies that survivor benefits would be paid to the estate when there are no survivors and no designated beneficiary.
- RESOLVED To adopt line 1.20 of the 7-A amendment, which specifies that the reduced service pension may not exceed the nonforfeitable percentage of the account balance.
- RESOLVED To forward to the Working Group for consideration the issue of whether lump sum benefits should be authorized to a trust, rather than only to a natural person.
- RESOLVED To change the Fire Department definition to include a municipal fire department *or* an independent nonprofit firefighting corporation.
- RESOLVED To forward to the Working Group for consideration the issue of allowing relief associations to define in their bylaws what constitutes a month of active service.
- RESOLVED To forward to the Working Group for consideration the topic of allowing special fund assets to be used to purchase insurance from the VFBA, or comparable insurance company licensed by the State of Minnesota.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Sub-Group Meeting Minutes

The members reviewed the August 19 meeting minutes that had been provided in advance. Scheerer made a motion to adopt the meeting minutes. Anderson seconded the motion. The members discussed the fourth resolution, which was to forward the topic of paying deferred interest to the full Working Group. Roed and Grant made suggestions to change the resolution to forward to the Working Group for consideration the issue of whether paying interest to deferred members should remain voluntary. The meeting minutes with the amended resolution was adopted unanimously.

III. Chapter 424A Re-Codification

Auditor Otto mentioned that the draft language includes all of the adopted resolutions except the resolution to include a specific deadline for submission of the Defined Contribution Allocation Table to the Office of the State Auditor (OSA). Martin provided recommendations for where the submission deadline could be added to the draft.

IV. Discussion of Sub-Group Legislative Suggestions

The members reviewed several suggestions for changes to the draft language.

- Separate from Active Service Definition

Adams suggested removing recurring phrases in the Separate from Active Service definition. Auditor Otto explained that the OSA would prefer that the definition be left unchanged, and the members agreed. Adams made a motion to delete lines 1.9 and 1.10 from the 7-A amendment. Scheerer seconded the motion, which was adopted unanimously.

- **Prohibition on Employing Minors**

Chapter 424A currently contains a prohibition on municipalities and independent nonprofit firefighting corporations from employing minors as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department. The group agreed that the prohibition is related to the fire department, rather than the relief association. Martin's draft amendment would move the current prohibition to a different section of state law, and would also prohibit minors from being members of a relief association. Adams made a motion to adopt lines 1.11 through 1.14 of the 7-A amendment, which is the language that would preclude minors from being members of a relief association. Scheerer seconded the motion, which was adopted unanimously.

The members discussed Boy Scout explorer groups, which appear to be prohibited under current law. Martin's draft language would exclude Boy Scout explorer groups from the prohibition on employing minors. The group discussed concerns about members of the explorer programs seeking membership in the relief association, and liability concerns if members of the program are injured. Anderson made a motion to forward to the Working Group the issue of whether the current statutory prohibition on employing minors should be changed to accommodate explorer programs. Adams seconded the motion, which was adopted unanimously. Scheerer made a motion to delete line 1.5 from the 7-A amendment and to adopt lines 1.6 through 1.8. Anderson seconded the motion, which was adopted unanimously. The deleted language pertains to the exclusion for explorer programs, while the adopted language moves the prohibition on employing minors to a new section.

- **Fire Prevention Personnel**

Adams recommended removing recurring phrases in the subdivision that authorizes fire prevention personnel. Auditor Otto explained that the OSA would prefer to keep the redundancies as they provide clarification and the group agreed to delete lines 1.15 to 1.18 of the 7-A amendment.

- **Section Heading**

Adams suggested making a change to the new Chapter 424A.015 section heading. The recommendation is to change the word "Benefit" to "Pension." Scheerer made a motion to adopt line 1.19 of the 7-A amendment. Adams seconded the motion, which was adopted unanimously.

- **Reduced Service Pensions**

Adams suggested changing language in the reduced service pension provision to clarify that defined contribution plans may offer full vesting after 10 years of service, but can choose to require more years of active service for vesting purposes. Hennessy Allen explained that the vesting percentages in state law are the maximum percentages allowed for each applicable year of service, and that the vesting table shows the maximum for 10 years "and thereafter." The group decided to address questions regarding vesting

requirements and percentages through training. Adams made a motion to delete lines 1.21 and 1.22 from the 7-A amendment. Anderson seconded the motion, which was adopted unanimously.

The group also discussed line 1.20 of the 7-A amendment, which would add language specifying that the reduced service pension “may not exceed” the nonforfeitable percentage of the account balance. This change mirrors current statutory language. Scheerer made a motion to adopt line 1.20 of the 7-A amendment. Adams seconded the motion, which was adopted unanimously.

- **Survivor Benefit Payments**

Martin’s draft language would clarify the order of payment for survivor benefits. The change specifies that if there are no survivors and no designated beneficiary, the survivor benefit would be paid to the estate. State law currently states that if there are survivors but no designated beneficiary, the benefit would be paid to the estate. Auditor Otto explained that the recommendation does change the meaning of the provision, but appears appropriate. Johnson made a motion to adopt line 1.23 of the 7-A amendment. Adams seconded the motion, which was adopted unanimously.

- **Authorization to Pay Pensions or Benefits to a Trust**

The 8-A amendment would allow benefits to be paid to a trust, rather than only to a natural person. The requirement that beneficiaries be a natural person was added to state law in 1999. Martin explained that there are only very limited instances when benefits from a public pension plan in Minnesota can be paid to a trust. Martin explained that most pensions in Minnesota are paid for the life of the member, and the payments cease when the member, or the member’s beneficiary, passes away. If benefits were paid to a trust, the payments would conceivably never cease. The duration of the benefit payments affects the pension plan’s funding. Martin said that perhaps an exception could be added to state law for volunteer fire relief associations that pay defined contribution or defined benefit lump sum pensions, but this would be a substantial policy change that would have to be considered. Scheerer made a motion to forward this topic to the Working Group for consideration. Adams seconded the motion, which was adopted unanimously.

- **Fire Department Definition**

Roed suggested changing the Fire Department definition to include a municipal fire department *or* an independent nonprofit firefighting corporation, rather than *and* an independent nonprofit firefighting corporation. Scheerer seconded the motion, which was adopted unanimously.

- **Month of Active Service Definition**

The group briefly discussed defining what constitutes a month of active service. Some relief associations specify in their bylaws that members must serve for at least a certain number of days to be eligible for a month of service credit. There currently doesn’t appear to be authority to round up service credit, or to give service credit for a period in

which the member wasn't actively serving. The group would like to allow relief associations to define a month of active service in their bylaws. If the bylaws are silent, a completed month must be served. Scheerer made a motion to forward this recommendation to the Working Group for consideration, since the change would affect all plan types. Adams seconded the motion, which was adopted unanimously.

- **Disability and Life Insurance**

Currently, relief associations using special fund assets to purchase disability and life insurance for their members are only authorized to purchase the insurance through the Volunteer Fire Benefit Association (VFBA). Insurance from any other insurance provider must be purchased using general fund assets. Anderson suggested allowing special fund assets to be used to purchase insurance from the VFBA, or a comparable insurance company licensed by the State of Minnesota. Anderson made a motion to forward this topic to the Working Group for consideration, since the change would affect all plan types. Scheerer seconded the motion, which was adopted unanimously. Martin also suggested that the current statutory language be split into two clauses, one for authorized dues payments and one for insurance payments.

V. Other Business

Auditor Otto thanked the members for their service on the sub-group and assured everyone that they would be kept informed of the status of the bill as it moves through the legislative process.

VI. Adjournment

The meeting was adjourned shortly after 1:00 p.m.