

**Minnesota Volunteer Fire Relief Association
Working Group Meeting**

Office of the State Auditor
Wednesday, October 21, 2015
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 October 7, 2015 Meeting Minutes

- III. Discussion of Requirement to Certify Service Credit**
Exhibit B.

- IV. Discussion of Definition of Volunteer Firefighter**
Exhibit C.

- V. Discussion of Expanding Relief Association Pension Eligibility to
Emergency Medical Personnel**
Exhibit D.

- VI. Other Business**

- VII. Next Meeting**
Tuesday, November 10, 2015
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, October 7, 2015
11 a.m. to 1 p.m.

Members Present

Steve Donney, City of Harmony Mayor
Luke Fischer, City of Plymouth Administrative Services Director
Dave Ganfield, Apple Valley Fire Relief Association President (defined benefit monthly/lump sum combination plans)
Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)
Dave Jaeger, Mahnomon Fire Relief Association Vice President (defined benefit lump sum plans)
Ron Johnson, Minnesota State Fire Department Association Representative (defined contribution plans)
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)
Rebecca Otto, State Auditor
Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Susan Lenczewski, Legislative Commission on Pensions and Retirement Executive Director
Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)

Others Present

Mary Chamberlain, Abdo, Eick & Meyers, LLP Representative
Candace Gislason, VanIwaarden Associates Representative
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Office of the State Auditor Pension Director
Abigail Mediger, Office of the State Auditor Pension Analyst
Brian McKnight, Wells Fargo Advisors Representative
Jeff Reed, Office of the State Auditor Supervisor of Special Investigations
Ryan Sendelbach, Office of the State Auditor Pension Analyst

The following motions were duly made, seconded and approved:

RESOLVED to approve the January 15, 2015, Working Group Meeting Minutes;
RESOLVED to approve the draft language to the definition of municipality; and
RESOLVED to approve the amended draft language to update the relief association dissolution statutes to define how surplus assets or any unfunded liability are divided or paid of the fire department was a joint powers entity.

I. Call to Order

Auditor Otto called the meeting to order.

II. Introductions

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

III. Review and Approval of Working Group Meeting Minutes

The members reviewed and unanimously adopted the January 15, 2015, meeting minutes that had been provided in advance. Fischer, Johnson, and Kruse abstained as they were not at the meeting.

IV. Working Group Process Discussion

- Working Group Meeting Schedule

The members reviewed the Working Group Meeting Schedule and shared their known scheduling conflicts. Auditor Otto stated that an additional meeting may be scheduled in January, if necessary.

- Working Group Purpose Statement

The members reviewed the Working Group Purpose Statement, which is the same as the Purpose 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 Process 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 is only one dissenting vote. No changes to the Process Statement were proposed.

- 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 (OSA)'s website.

V. Discussion of Working Group Topic Suggestions

Auditor Otto explained that topic suggestions have been received for the Working Group's consideration. Hennessy Allen walked through the list of proposed topics. The members discussed the proposed topics and agreed to rank them before the next meeting.

Zikmund suggested that the topic to consider requiring the fire chief to annually certify good time service credit to the relief association be broadened so that the requirement is of the fire chief or a municipal representative.

Ganfield suggested a topic of discussing deferred interest and how to limit the length of time it is paid be added as a suggestion.

Donney suggested adding the discussion of the Schedule Form and defining projected investment earning amounts as a possible topic.

VI. Review of Joint Powers Sub-Group Recommendations

Auditor Otto explained that the last Working Group asked the OSA to convene a sub-group to discuss issues related to the consolidation of fire departments and “divorce” of joint powers fire departments. When fire departments consolidate or divorce there can be negative impacts on both firefighters and the public’s best interest. The sub-group worked to identify ways to resolve these negative effects through legislation, best practices, and education. The sub-group drafted four legislative changes that were forwarded to the Working Group for consideration.

• Definition of Municipality

The sub-group is proposing updates to the definition of “municipality” found in the relief association statutes. The updates would only change the definition in Chapter 424A, and would not make any changes to the definition found in the state aid statutes. The changes would modernize the statutes to include joint-powers entities. Hemstad made a motion to adopt the draft changes. Donney seconded the motion that then was adopted unanimously.

• Combined Service Pensions

Currently, defined benefit relief associations have authority to pay combined service pensions to volunteer firefighters with service in more than one volunteer fire department. A combined service pension is a service pension that combines years of service among multiple volunteer fire departments to determine when a member is vested. To pay a combined service pension, the bylaws of each participating relief association must allow the combined service pension payments. The sub-group proposal expands the authority to pay combined service pensions to defined contribution plans. McKnight shared that the two-year notice requirement may be too short of a period. The members agreed to consider this proposal and to revisit it at a future meeting.

• New Joint Powers Subdivision

The sub-group is proposing the creation of a new subdivision within the joint powers statutes for fire departments. The new subdivision specifies that a joint powers agreement will continue even if one or more of the contracting parties terminates the membership. The new subdivision also defines how assets will be distributed following the exit of one or more parties to the agreement and refers any unresolved disputes to the Office of the Administrative Hearings for resolution. Auditor Otto explained that the goal of the new subdivision is to protect firefighters. The members agreed to consider this proposal and to revisit it at a future meeting.

• Division of Surplus Assets

Auditor Otto explained that there is a process defined in statute for the dissolution of a volunteer fire relief association. When a relief association dissolves, outstanding administrative expenses are paid and all members who are vested and at least the minimum retirement age are paid. A trust fund containing the remaining special fund assets is then established with the affiliated municipality. When vested members meet

the minimum retirement age they are paid by the municipality from the trust fund. After the last eligible member is paid, any remaining assets in the trust fund cancel to the municipality. If there is a shortage in the trust fund, the municipality is responsible for the unfunded liability. The draft legislation proposed by the sub-group updates the dissolution statutes to define how surplus assets are divided, or any unfunded liability is paid, if the fire department was a joint powers entity. Johnson identified a typo on the last line of the draft language. Zikmund made a motion to adopt the draft language as amended. Jaeger seconded the motion that then was adopted unanimously.

VII. Discussion of Fire Chief Requirement to Certify Service Credit

Auditor Otto explained that the OSA regularly receives questions about the length of time that members should be credited with service credit. Service credit for pension purposes is based in large part on a member meeting the minimum service requirements established by the affiliated fire department. A relief association does not know which members met the minimum service requirements unless the association receives a service report from the fire department. Chiefs of fire departments that belong to the Statewide Plan administered by the Public Employees Retirement Association are required to certify annually the good time service credit for each firefighter.

The members agree that this topic should be considered but had questions about who should make the certification and to whom the certification should be made. Jaeger recommended that the certification be made to the OSA instead of to the relief association. Ganfield suggested that a March 31 deadline for making the certification may be too late. Zikmund suggested that a municipal representative, such as the city clerk, should make the certification instead of the fire chief. Zikmund also said that annually providing members with their service credit information will help to limit disputes to the most recent year of service. Ganfield also identified data privacy concerns. The members agreed to revisit this topic at a future meeting.

VIII. Other Business

The other business was held over to the next meeting.

IX. Adjournment

The meeting was adjourned shortly after 1:00.

Exhibit B

Certification of Service Credit

Topic:

Questions regularly arise regarding the length of time for which relief association members should be credited with service credit for pension purposes. Generally, fire departments set the standards and must determine whether each firefighter is in good standing and has met the minimum service requirements that the department has established. Fire departments should provide the affiliated relief associations with reports listing the service credit determinations for the respective reporting period. Relief associations award service credit for pension purposes, in large part, on these fire department service reports. Problems occur when relief association trustees do not receive service credit information from the fire department.

Chiefs of fire departments that belong to the Statewide Plan administered by the Public Employees Retirement Association (PERA) are required to certify annually good time service credit for each firefighter to the executive director of PERA. A similar certification requirement to relief association treasurers for fire departments not in the Statewide Plan may help to ensure the associations have the information they need to award service credit for pension purposes.

Questions to Consider:

- Who should make the certification? Options include the fire chief and a municipal official or representative.
- When should the certification be made? Is the March 31 deadline used for PERA too late?
- Who should the certification be made to? Options include the relief association treasurer and the relief association board of trustees.
- What should the appeal process be? Options include a mandatory referral to the Office of Administrative Hearings.

PERA Statute:

353G.07 CERTIFICATION OF GOOD TIME SERVICE CREDIT.

(a) Annually, by March 31, the fire chief of the fire department with firefighters who are active members of either the lump-sum retirement division or the monthly benefit retirement division shall certify to the executive director the good time service credit for the previous calendar year of each firefighter rendering active service with the fire department.

(b) The fire chief shall provide to each firefighter rendering active service with the fire department notification of the amount of good time service credit rendered by the

firefighter for the calendar year. The good time service credit notification must be provided to the firefighter 60 days before its certification to the executive director of the Public Employees Retirement Association, along with an indication of the process for the firefighter to challenge the fire chief's determination of good time service credit. If the good time service credit amount is challenged in a timely fashion, the fire chief shall hold a hearing on the challenge, accept and consider any additional pertinent information, and make a final determination of good time service credit. The final determination of good time service credit by the fire chief is not reviewable by the executive director of the Public Employees Retirement Association or by the board of trustees of the Public Employees Retirement Association.

(c) The good time service credit certification is an official public document. If a false good time service credit certification is filed or if false information regarding good time service credits is provided, section 353.19 applies.

(d) The good time service credit certification must be expressed as a percentage of a full year of service during which an active firefighter rendered at least the minimum level and quantity of fire suppression, emergency response, fire prevention, or fire education duties required by the fire department under the rules and regulations applicable to the fire department. No more than one year of good time service credit may be certified for a calendar year.

(e) If a firefighter covered by the retirement plan leaves active firefighting service to render active military service that is required to be governed by the federal Uniformed Services Employment and Reemployment Rights Act, as amended, the person must be certified as providing a full year of good time service credit in each year of the military service, up to the applicable limit of the federal Uniformed Services Employment and Reemployment Rights Act. If the firefighter does not return from the military service in compliance with the federal Uniformed Services Employment and Reemployment Rights Act, the good time service credits applicable to that military service credit period are forfeited and cancel at the end of the calendar year in which the federal law time limit occurs.

History: 2009 c 169 art 9 s 16; 2015 c 68 art 8 s 16

Exhibit C

Definition of Volunteer Firefighter

Topic:

The definition of “volunteer firefighter” found in the relief association statutes does not include a requirement that the firefighter perform or supervise volunteer firefighting duties. Additionally, service credit requirements for a relief association member to be eligible to receive a service pension from the association do not require the member to be a volunteer firefighter or perform or supervise volunteer firefighting duties. Because of this lack of specificity, some career firefighters who solely perform fulltime firefighting duties and who are covered by PERA for those duties are also being paid service pensions from their affiliated relief associations for their fulltime duties.

Optional changes are provided below that update the definition of “volunteer firefighter” in the relief association statutes to clarify that a volunteer firefighter performs duties on a volunteer, part-time, or paid-on-call basis. The provisions that authorize the payment of a defined-contribution or defined-benefit service pension are also updated to incorporate the volunteer firefighter definition. Currently, the term volunteer firefighter is defined, but is not used within the relief association statutes.

Optional Changes:

424A.001 DEFINITIONS.

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who is a member of the applicable fire department or the independent nonprofit firefighting corporation and is eligible for membership in the applicable relief association and on a volunteer, part-time, or paid-on-call basis:

- (i) is engaged in providing emergency response services or delivering fire education or prevention services as a member of a municipal fire department, a joint powers entity fire department, or an independent nonprofit firefighting corporation;
- (ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under subdivision 8; and
- (iii) meets any other minimum firefighter and service standards established by the fire department or the independent nonprofit firefighting corporation or specified in the articles of incorporation or bylaws of the relief association.

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

Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined contribution 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~~ volunteer firefighter 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.

(b) In the case of a member who has completed at least five years of active service as an active ~~member~~ volunteer firefighter 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 any disability benefit coverage, is not entitled to receive additional individual account allocation of fire state aid or municipal contribution towards a service pension, and is considered to have the status of a person entitled to a deferred service pension.

(c) The service pension earned by a volunteer under this chapter and the articles of incorporation and bylaws of the 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.

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~~ volunteer firefighter 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~~ volunteer firefighter 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.

Exhibit D

Expanding Pension Eligibility to Emergency Medical Personnel

Topic:

Last year, the Working Group began discussing whether to expand, subject to local approval, eligibility for relief association service pensions to volunteer emergency medical personnel. The majority of calls that most fire departments receive are medical.

The Office of the State Auditor conducted a survey in April of relief association trustees and municipal officials to collect information about how many people on the fire department solely provide volunteer emergency medical services. Responses were received from 565 people. About 62 percent of respondents said that the fire department affiliated with the relief association provides emergency medical services. Nearly 64 percent of respondents said that individuals on the fire department who provide just emergency medical services receive no compensation. We asked how many individuals within the fire department perform just volunteer or paid-on-call emergency medical services. Answers ranged from 0 to 45.

There are some options available to provide volunteer emergency medical personnel with compensation for their service, but there appears to be a coverage gap. Two options, the Defined Contribution Plan administered by PERA and the Cooper/Sams Volunteer Ambulance Program, are explained in more detail below.

PERA Defined Contribution Plan:

The Defined Contribution Plan is a tax-deferred retirement savings program for public ambulance service personnel. Any public ambulance service or private ambulance service that receives an operating subsidy from a governmental agency in Minnesota may elect to participate in the plan. Once an ambulance service chooses to join the program, individual participation in the plan is voluntary and there is no minimum salary requirement. A description of the plan from PERA's website is attached.

Cooper/Sams Volunteer Ambulance Program

- What is a Cooper/Sams Volunteer Ambulance Program?
 - A lump sum payment provided through state appropriation to qualified ambulance service personnel
 - It's intended to help recruit and retain volunteer ambulance EMS personnel.
 - There is no guarantee of a Cooper/Sams award payment and there is no cause of action if the state does not make payment

- Only 400 persons with the greatest amount of service credit are eligible for a Cooper/Sams award payment in any given year
- It is not a retirement or pension payment
- Who Administers the Cooper/Sams Volunteer Ambulance Program?
 - Emergency Medical Services Regulatory Board (EMSRB)
 - The trust account is invested by the State Board of Investment
- Who's Eligible for the Cooper/Sams Volunteer Ambulance Program?
 - Qualified Ambulance Service Personnel including:
 - Ambulance Attendants
 - Ambulance Drivers
 - Ambulance Service Medical Directors or Medical Advisors
- Who Qualifies as an Ambulance Service Personnel?
 - An active volunteer ambulance attendant or driver in good standing who isn't compensated or receives only nominal hourly stipends for work time (< \$7,500 in 2014) or an ambulance service medical director or advisor in good standing (hourly stipends or salary)
 - Provides services to the public through a state licensed ambulance service
 - Provides services primarily in Minnesota to Minnesota residents
 - Have a certification as an ambulance attendant, driver, ambulance service medical director or advisor, which must be current during the 12 month period ending June 30th immediately prior to the award
- What Qualifications have to be met to claim an Incentive Award?
 - Be at least 50 years of age
 - Have accrued at least 5 service credits
 - Have resigned from active volunteer service on the ambulance; and
 - Complete and postmark an application by October 1, of the year in which the award is claimed
- Who Is Responsible for Tracking Service Credit?
 - Each state licensed ambulance service must annually complete a yearly Current Service Credit Claim Form application for each of its volunteer ambulance service personnel and submit it to EMSRB by August 1.
 - No service credit is given for any application submitted after August 1.

- What is each Service Credit worth?
 - Each service credit is worth \$447.19
 - Example: a qualified ambulance service personnel with 26 service credits would receive a one-time, lump sum payment of \$11,626.94
 - By contrast, the average benefit level for lump-sum plans for firefighters is \$1,431 so a firefighter with 26 years of service would receive a one-time, lump sum payment of \$37,206.00.

[Back to Web Site](#)

Public Employees Retirement Association of Minnesota Administering and Promoting Sustainable Retirement Plans

Volunteer Ambulance Personnel

The Defined Contribution Plan (DCP) administered by PERA is a tax-deferred retirement savings program for public ambulance service personnel. (Participation is also available to public physicians and elected public officials.) Participants determine how employee and employer contributions are to be invested through the purchase of shares in accounts of the Minnesota Supplemental Investment Fund. Total contributions plus investment performance determine the ultimate benefit, which is paid as a lump sum upon withdrawal.

Eligibility

Any public ambulance service or private ambulance service that receives an operating subsidy from a governmental agency in Minnesota may elect to participate in the plan. Once an ambulance service chooses to join the program, individual participation in the plan is completely voluntary and there is no minimum salary requirement. A person's decision to participate must be made within 30 days of the service's joining the program, or 30 days from the date the individual became employed or began providing service to the agency, whichever is later.

How it Works

Ambulance services fund the benefits of individuals who elect to participate in the plan and determine the contributions that will be made on behalf of participating personnel. The ambulance service must establish a fixed percentage of compensation to contribute on behalf of personnel who are paid wages or a salary. Paid personnel may in turn choose to make member contributions up to the amount the ambulance service makes on their behalf. Ambulance services making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions.

Individual participants designate a percentage of total contributions to be placed in one or more of seven accounts of the Minnesota Supplemental Investment Fund. This investment fund is administered by the Minnesota State Board of Investment and includes actively and passively managed stock, bond and balanced accounts, a money market fund and a fixed interest plan. The investment goals of these accounts and the returns the accounts have actually achieved are described in the [Minnesota Supplemental Investment Fund annual prospectus](#) published by the Minnesota State Board of Investment.

Contributions made by the ambulance service and any made by the participant (minus administrative charges) are combined and used to purchase shares in accounts selected by the participant. Shares belong entirely to the individual participant. Except for the Money Market and Fixed Interest accounts, whose shares are always one dollar each, shares are purchased at market prices.

Interest paid by the money market and fixed interest accounts is reinvested, increasing each share's value of the respective accounts. Interest and dividends earned by the stocks and bonds held in the other five accounts are used to purchase additional shares in those accounts. These purchases and the gains and losses in market value of the stocks and bonds held in the accounts are reflected in the value of the accounts' shares, in much the same way as with mutual funds.

DCP Participants may change their investment selections any time and may also transfer all or portions of

previously purchased shares from one account to another. Some special restrictions may apply, however, to transferring funds to other accounts from the Fixed Interest Account. Contact the PERA office for complete details about these transfer restrictions.

PERA provides a statement of account to DCP participants twice a year. Among other things, the semi-annual statement reports the contributions deposited into the participant's account in the six-month reporting period and the total value of the shares the participant owns at the end of the reporting period.

The Defined Contribution Plan and Taxes

Participants do not pay taxes on contributions to the DCP withheld from earnings and those made on behalf of the participant by the employing ambulance service. However, because the DCP is a qualified tax-deferred program, these contributions are taxable upon withdrawal, unless rolled over into another tax-qualified plan. If taken out before age 59½, withdrawals are, with a few exceptions, subject to an additional ten percent tax surcharge, unless rolled over.

Because the DCP is tax-qualified, enrollment in the plan may, depending on an individual's income level, reduce or eliminate the tax deductibility of contributions to an individual retirement account (IRA).

Administrative Charges

Two percent of the employer contributions to the DCP (2 cents for each \$1.00 contributed by your employer) is used by PERA for administrative costs of the plan. In addition, 0.25 percent (one quarter of one percent) of the value of your shares is also retained by PERA each year to help defray the costs of administering the plan. This asset-based charge amounts to \$2.50 for each \$1,000 in your account.