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New Laws and Volunteer Fire Relief Associations

By Rebecca Otto, State Auditor

The Omnibus Retirement Bill signed into law on May 31, 2018, contains a number of provisions that affect volunteer fire relief associations. This is the first time in three years that a pension bill was signed into law, so the 2018 bill includes recommendations compiled over several years. Many of the changes were recommended by the Volunteer Fire Relief Association Working Group, which is annually convened by the Office of the State Auditor (OSA). In addition to changes to law that impact relief associations, the Working Group proposals included technical corrections to the statutes and recommendations to update the statutes to incorporate joint powers fire departments. Additional changes that were not part of the Working Group's proposals but that do impact relief associations also became law. These additional changes primarily impact individual relief associations or very small groups of relief associations. The changes that impact individual or small groups of relief associations are not discussed in this Article.

Will We Need to Make Changes to Our Bylaws?

The technical changes may not require changes to your relief association's bylaws, unless your bylaws reference the specific statutory citations or quote language that has been changed. We will update our Selected Relevant Statutes booklet once the 2018 statutes are officially published. The booklet will allow relief associations to compare their bylaw language with the new statutory language to determine if changes are needed.

Relief associations that wish to implement certain provisions authorized by the pension bill will need to update their bylaws. The provisions requiring bylaw updates are identified in this Article. The OSA's Sample Bylaw Guides, which can also be helpful as a reference, are being updated to reflect the recent law changes. The bylaw guides are available in both MS Word and Adobe PDF formats on our website, and we expect the updated versions to be available by early fall. The title page shows the date on which the Guide was last revised. To view the Guides, go to www.auditor.state.mn.us: once there, select the menu

item “For Local Officials” and click on “Pension Documents.” You will find the Guides under the “Sample Bylaw Guides” heading.

Certification of Service Credit

A requirement was added to statute that the fire chief annually, by March 31, certify service credit information for each volunteer firefighter to the relief association and to the municipal clerk. Fire departments are responsible for establishing the minimum service requirements to earn service credit, calculating the service credit for each firefighter, and determining whether each firefighter is in good standing. Administratively, relief associations need this service credit information when determining eligibility for pension credit. The new certification requirement will help ensure that relief association trustees have the information they need to correctly award service credit for pension purposes.

The fire chief must also provide to each active volunteer firefighter notification of the amount of service credit rendered by the firefighter for the previous calendar year. The service credit notification must be provided to the firefighter 60 days prior to its certification to the relief association and municipality, along with a description of the process and deadlines for the firefighter to challenge the fire chief’s determination. This annual notification to each firefighter will help resolve service credit disputes in a timely manner, rather than when the firefighter requests the service pension distribution.

Prohibition on Receipt of Concurrent Service Credit

Clarity has been added to the relief association statutes to prohibit firefighters from receiving service credit in a volunteer fire relief association for the same hours of service for which coverage is already provided in the Public Employees Retirement Association (PERA). The relief association and PERA statutes now clearly prohibit firefighters from receiving credit in two public pension plans for the exact same hours of service.

Volunteer Emergency Medical Personnel

Volunteer emergency medical personnel are now allowed, subject to local approval, to become members of a relief association and to be eligible for service pensions from the relief association on the same basis as volunteer firefighters. In order for this membership expansion to take place a relief association must amend its bylaws to authorize the change and the municipality must approve the change.

There has been a gap in pension coverage for individuals who are solely providing emergency medical services on a volunteer basis. This change is seen by some communities as an important tool to help recruit and retain individuals who are solely providing medical services for volunteer fire departments. If the local community decides to expand its relief association membership to include volunteer emergency medical personnel, any additional costs will be funded by the municipality, which is why municipal approval of the change is required.

The statutes were also updated to authorize volunteer emergency medical personnel who receive a relief association service pension or benefit to also be eligible for the supplemental benefit distribution.

Combined Service Pensions

Defined benefit relief associations have had authority to offer combined service pensions to firefighters who have service in more than one volunteer fire department. Now, defined contribution plans have authority to offer combined service pensions, too.

A combined service pension means that years of service among multiple volunteer fire departments are combined for purposes of a volunteer firefighter's vesting. Assets are *not* transferred between or among relief associations when a combined service pension is payable. When a member who is eligible for a combined service pension retires, the member is paid a pension from each participating relief association in which the member has accrued at least one year of active service credit. To pay a combined service pension, the bylaws of each participating relief association must be amended to allow the combined service pension payments.

Corporate Stock Restrictions

The corporate stock authority in statute has been clarified so that compliance with the statutory investment restrictions is measured based on the underlying securities owned by the relief association and not by how the securities were purchased. This change helps close a loophole that had allowed relief associations to invest in any mutual funds or exchange-traded funds without limitation, even those that hold commodities, futures, and other speculative securities.

Creation of New Work Groups

The pension bill requires that two new temporary work groups be formed and provide reports back to the legislature for consideration during the 2019 Legislative Session.

A Fire State Aid Work Group will be convened by the Public Employees Retirement Association (PERA) to study and make recommendations on how fire state aid may be used in communities that have "combination" fire departments consisting of both volunteer (or paid-on-call) firefighters and paid full-time firefighters. Specifically, this work group will discuss whether a change to current law should be sought to allow municipalities that have "combination" fire departments to retain a portion of the fire state aid to pay employer contributions to PERA on behalf of their full-time firefighters. Currently, all fire state aid received by the municipality must be transferred to the volunteer fire relief association or to the statewide volunteer firefighter retirement plan administered by PERA.

A Relief Association Work Group will be convened by the Legislative Commission on Pensions and Retirement to study the statutes governing conversions from a defined benefit relief association to a defined contribution relief association, the statutes governing relief association dissolutions and how surplus assets are distributed, the prevalence of overfunded relief associations, and transitions to full-time fire departments.

We will provide updates regarding the activities of both work groups in our monthly Pension Division Newsletter.

Additional Information

Detailed information regarding the 2018 legislative changes will be included in the OSA's 2018 Legislative Update. The Update will contain links to Statements of Position and other helpful information, and references to specific applicable provisions within the Sample Bylaw Guides. The Update will be posted on the OSA website under the "Latest News" menu item in the "Pension Division Newsletters." Click on the "2018 Legislative Update" heading.