

Minnesota Volunteer Fire Relief Association

Working Group Meeting

Office of the State Auditor
Thursday, December 6, 2018
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 29, 2018 Meeting Minutes
- III. Review of Draft Legislation**
Exhibits B through G.
 - Benefit Levels for Ancillary Benefits (B)
 - Bylaw Approval Technical Change (C)
 - Deferred Interest Technical Change (D)
 - Investment Additional Reporting Threshold (E)
 - Legal Compliance Audits Technical Change (F)
 - Supplemental Survivor Benefits (G)
- IV. Discussion of Permitting Different Vesting Requirements for Certain Return-to-Service Members**
Exhibit H.
- V. Discussion of Benefit Level for Members with a Break in Service**
Exhibit I.
- VI. Discussion of Vesting Requirements for Defined-Benefit Plans**
Exhibit J.
- VII. Review Statutory Definitions of “Volunteer Firefighter”**
Exhibit K.
- VIII. Other Business**
- IX. Next Meeting**
- X. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by December 5, 2018.

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Thursday, November 29, 2018
11 a.m. to 1 p.m.

Members Present

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans) (by phone)
Dave Jaeger, Mahnomen 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)
Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)
Susan Lenczewski, Legislative Commission on Pension and Retirement Executive Director
Tim O'Neill, Minnesota State Fire Chiefs Association Representative (defined benefit monthly/lump sum plans)
Rebecca Otto, State Auditor
Sue Virnig, City of Golden Valley Finance Director (by phone)
Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)
Thomas Wilson, Eden Prairie Fire Relief Association Secretary (defined benefit monthly/lump sum plans)

Members Excused

Steve Donney, City of Harmony Mayor

Others Present

Ramona Advani, Deputy State Auditor and General Counsel
Rachel Carlson, Capital Access Representative
Aaron Dahl, BerganKDV Representative
Anne Finn, League of Minnesota Cities Representative
Stuart Glaser, Stillwater Fire Chief
Rose Hennessy Allen, Office of the State Auditor Pension Director
Jason Kuenle, Office of the Revisor of Statutes Representative
Mark Schulte, VanIwaarden Associates Representative
Cullen Sheehan, MNFAC Representative
Mike Stroeing, Public
Michael Walstien, Plymouth Fire Relief Association Vice President
Maddison Zikmund, Spring Lake Park, Blaine, Mounds View Fire Department Representative

The following motions were duly made, seconded and approved:

- RESOLVED to adopt the October 16, 2018, Working Group meeting minutes;
- RESOLVED to draft language to allow firefighters who return to active service with the same, or different, fire department after a cessation of firefighting duties, and who have provided notice, to have a lower vesting requirement for the resumption period of service as defined by the relief association's bylaws;
- RESOLVED to move forward with the concept that firefighters who incur a break in service at the end of their firefighting career should have their service pensions calculated using the benefit level in effect when they last were active;

RESOLVED to adopt the draft language that increases the additional investment reporting threshold so that relief associations maintain their current investment reporting requirements; and

RESOLVED to draft language that would allow defined benefit relief associations to offer full vesting after ten completed years of active service.

I. Call to Order

Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the October 16, 2018, meeting minutes that had been provided in advance. Johnston made a motion to adopt the minutes. Johnson seconded the motion that was then adopted unanimously. Kruse abstained as he was not in attendance at the October 16 meeting.

III. Discussion of Permitting Different Vesting Requirements for Certain Return-to-Service Members

Auditor Otto reminded the Working Group members that this topic had been held over from the last meeting so that the members could consider whether a minimum length of service should be set in statute. She also asked the Working Group members whether lower vesting requirements for members who return after being paid a service pension should apply only if the firefighter returns to the same fire department.

The members agreed that relief associations should be able to define in their bylaws the minimum service requirement, so that each community has flexibility to address its recruitment and retention challenges. Schulte suggested that the present value table used to calculate active-member liabilities for the defined-benefit lump-sum plans be reviewed, as it has not been updated in many years and may need revision if lower vesting requirements are authorized. Auditor Otto inquired as to whether the LCPR actuary could review the table. Lenczewski said that they may be able to review the table.

Johnston asked if a firefighter must be paid a service pension to qualify for the lower vesting requirement upon a resumption of service because a firefighter who retires and relocates may want to leave his or her accrued benefit with the relief association if the benefit is earning interest. Hemstad made a motion for the language to be redrafted to allow firefighters who return to active service with the same, or different, fire department after a cessation of firefighting duties, and who have provided notice, to have a lower vesting requirement for the resumption period of service as defined by the relief association's bylaws. Johnson seconded the motion that was then adopted unanimously.

IV. Discussion of Benefit Level for Members with a Break in Service

The Working Group members reviewed draft language that would require the benefit level in effect when a firefighter was last active to be used to calculate service pensions

for firefighters with a break in service at the end of their firefighting career. Advani explained that the drafting was challenging as we tried to work with terms defined in Chapter 424A. The terms “active” and “inactive,” for example, are not defined. Kuenle said that he would try to think of alternatives to help clarify the draft language. O’Neill made a motion to move forward with the concept. Wall seconded the motion that was then adopted unanimously.

V. Discussion of Increase to Investment Additional Reporting Threshold

The Working Group members reviewed draft language that would increase the additional investment reporting threshold to \$50 million from the current \$25 million. The proposed change would ensure that relief associations maintain their current reporting requirements. Johnston made a motion to adopt the draft language. Jaeger seconded the motion that was then adopted unanimously.

VI. Discussion of Vesting Requirements for Defined-Benefit Plans

Auditor Otto explained that members of a relief association with a defined benefit plan must complete at least 20 years of active service to be fully (100 percent) vested. Vesting requirements for defined benefit plans have not changed since 1979. Permitting a shorter vesting requirement is seen by some as a way to help fire departments that are facing challenges in the recruitment and retention of firefighters.

Auditor Otto also explained that the vesting requirements for defined contribution plans were changed during the 2004 Legislative Session. Defined contribution plans are permitted to allow full vesting after a member completes at least ten years of active service.

The Working Group members agreed that some relief associations may not want to change vesting requirements because of a concern about firefighters leaving after accruing fewer years of service, while other relief associations may want to permit shorter vesting as a way to retain firefighters longer and to recruit new firefighters. Walstien shared reasons that his relief association is interested in allowing full vesting after ten years of service and the financial impact of the change that was calculated by the relief association’s actuary. The Working Group members agreed to pursue a change to the full vesting requirement for defined benefit plans so long as the change is optional. O’Neill made a motion to have language drafted that would permit defined benefit relief associations to offer full vesting after ten completed years of active service. Johnston seconded the motion that was then adopted unanimously.

VII. Review Statutory Definitions of “Volunteer Firefighter”

The Working Group was asked to review the various definitions of “volunteer firefighter” in statute to consider whether the different definitions are appropriate or whether changes should be made so that the definitions are the same or more similar. Kuenle shared a handout with the Working Group showing the five statutory definitions of “volunteer

firefighter” and identified sections that use the phrase without separately defining it. The Working Group members will revisit this topic at the next meeting.

VIII. Other Business

There was no other business.

IX. Next Meeting

Thursday, December 6, 2018

11 a.m. to 1 p.m.

Office of the State Auditor

X. Adjournment

The meeting was adjourned at about 1:00.

Exhibit B

Benefit Levels for Ancillary Benefits

Topic:

Currently, the benefit level in effect at the time a relief association member becomes disabled or dies is the benefit level to be used when calculating the disability or survivor benefit. Questions have arisen about what benefit level should be used to calculate benefits for members who are in deferred status at the time they become disabled or die. Relief associations may have made numerous benefit level changes during a member's period of deferral.

An optional change below would update the ancillary benefit provision for defined-benefit relief associations to use the benefit level in effect at the time of a member's separation from active fire department service as the benefit level when calculating disability and survivor benefits.

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

Subd. 9. Limitation on ancillary benefits. A defined benefit relief association, including any volunteer firefighters relief association governed by Laws 2013, chapter 111, article 5, sections 31 to 42, or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide solely for a lump-sum service pension to a retiring member, or provide a retiring member the choice of either a lump-sum service pension or a monthly service pension and the lump-sum service pension was chosen, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former

member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated. For deferred members, the amount of a permanent disability benefit or a survivor benefit must be calculated using the service pension amount in effect on the date the deferred member separated from active service, unless the bylaws of the relief association specify a different service pension amount to be used for the calculation.

(3)(i) If a lump sum survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving children and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(4)(i) If a monthly benefit survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(iii) For purposes of this clause, if the relief association bylaws authorize a monthly survivor benefit payable to a designated beneficiary, the relief association bylaws may limit the total survivor benefit amount payable.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a trust created under chapter 501C may be a designated

beneficiary. If a trust is payable to the surviving children organized under chapter 501C as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this section to the contrary.

EFFECTIVE DATE: This section is effective January 1, 2020.

Exhibit C
Bylaw Approval Technical Change

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

Subd. 10. Local approval of bylaw amendments; filing requirements. (a) Each defined benefit relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of the each municipality served by the fire department to which the relief association is directly associated or by the independent nonprofit firefighting corporation, as applicable. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding under section 424A.092, subdivision 3, paragraph (c), clause (5), or 424A.093, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 424A.092 or 424A.093, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized under section 69.80 payable from the special fund of the relief association is effective until it has been ratified as required under section 424A.092, subdivision 6, or 424A.093, subdivision 6. If the special fund of the relief association has a surplus over full funding under section 424A.092, subdivision 3, or 424A.093, subdivision 4, and if the municipality is not required to provide financial support to the special fund under this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund if authorized under section 424A.092, subdivision 6, or 424A.093, subdivision 6.

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification, and any service pensions or ancillary benefits payable

after that date must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

EFFECTIVE DATE: This section is effective January 1, 2020.

Exhibit D

Deferred Interest Technical Changes

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

Subd. 6. Deferred service pensions. (a) A member of a relief association is entitled to a deferred service pension if the member separates from active service and membership and has completed the minimum service and membership requirements in subdivision 2. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least 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**~~credited~~:

(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;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighters 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 accounting date on which the investment return is recognized by and credited to the special fund.

(d) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to **pay**~~credit~~ interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to **paycredit** interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

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

Subd. 7. Deferred service pensions. (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member separates from active service and membership and has completed the minimum service and membership requirements in subdivision 1. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least 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, **paycredit** interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be **paidcredited** 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;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(3) at an interest rate of up to five percent, compounded annually, as set by the board of trustees.

(d) Any change in the interest rate set by the board of trustees under paragraph (c), clause (3), must be ratified by the governing body of the municipality served by the fire department to which the relief association is directly associated, or by the independent nonprofit firefighting corporation, as applicable.

(e) Interest under paragraph (c), clause (3), is **payablecredited** beginning on the January 1 next following the date on which the deferred service pension interest rate as set by the board of trustees was ratified by the governing body of the municipality served by the fire department to which the relief association is directly associated, or by the independent nonprofit firefighting corporation, as applicable.

(f) Unless the bylaws of a relief association that has elected to **paycredit** interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and

ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to **paycredit** interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the first day of the month next following the date on which the member separates from active service and membership and ending on the last day of the month immediately before the month in which the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to **paycredit** interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

(g) 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.

EFFECTIVE DATE: This section is effective January 1, 2020.

Exhibit E

Increase to Investment Additional Reporting Threshold

Topic:

Investment reporting requirements for volunteer fire relief associations, all other local public pension plans, and the State Board of Investment (SBI) are defined in Section 356.219. The reporting requirements depend on the total market value of the plan and whether the plan is fully invested with the SBI. The current threshold at which additional investment reporting is required is \$25 million. The Bloomington Fire Department Relief Association, the St. Paul Teachers' Retirement Fund Association, and the SBI are currently the only entities above the \$25 million threshold, and are all significantly above the threshold.

The threshold has been adjusted a number of times, and needs to be adjusted again so that relief associations remain under the threshold and maintain their current reporting. The reporting statute is provided below.

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

Subd. 3. **Content of reports.** (a) The report required by subdivision 1 must include a written statement of the investment policy. Following that initial report, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If, after four years of reporting under this paragraph, the total portfolio time weighted rate of return, net of all investment related costs and fees, provided by the public pension plan differs by no more than 0.1 percent from the comparable return for the plan calculated by the Office of the State Auditor, and if a public pension plan has a total market value of **\$5025,000,000** or more as of the beginning of the calendar year, and if the public pension plan's annual audit is performed by the state auditor or by the legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and as of the end of the calendar year. At the discretion of the state auditor, the public pension plan may be required to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class. If the market value of a public pension plan's fund drops below **\$5025,000,000** in a subsequent year, it must continue reporting under this paragraph for any subsequent year in which the public pension plan

is not fully invested as specified in subdivision 1, paragraph (b), except that if the public pension plan's annual audit is not performed by the state auditor or legislative auditor, paragraph (c) applies.

(c) If paragraph (b) would apply if the annual audit were provided by the state auditor or legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class.

(d) For public pension plans to which paragraph (b) or (c) applies, the report required by subdivision 1 must also include a calculation of the total time-weighted rate of return available from index-matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(e) If a public pension plan has a total market value of less than **\$5025,000,000** as of the beginning of the calendar year and was never required to file under paragraph (b) or (c), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(f) Any public pension plan reporting under paragraph (b) or (c) must include computed time-weighted rates of return with the report, in addition to all other required information, as applicable. The chief administrative officer of the public pension plan submitting the returns must certify, on a form prescribed by the state auditor, that the returns have been computed by the pension plan's investment performance consultant or custodial bank. The chief administrative officer of the public pension plan submitting the returns also must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and presentation standards set by the CFA Institute. If the certifications required under this paragraph are not provided, the reporting requirements of paragraph (c) apply.

(g) For public pension plans reporting under paragraph (e), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or be submitted by the State Board of Investment for any plan or plans for which the State Board of Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply, the

pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

EFFECTIVE DATE: This section is effective January 1, 2020.

Exhibit F

Legal Compliance Audits

Topic:

A volunteer fire relief association is a governmental entity that receives and manages public money to provide retirement benefits. Under Minn. Stat. § 6.65, the Office of the State Auditor (OSA) prescribes minimum procedures and the audit scope for auditing the books, records, accounts, and affairs of political subdivisions in Minnesota. This law provides that the minimum scope of such audits “must include financial and legal compliance audits.” This is why the OSA promulgates the legal compliance audit guides that CPAs use when they audit local governments and relief associations.

Prior to 2008, Minn. Stat. § 6.65 referred not to “political subdivisions,” but to “counties and local governments in Minnesota,” which clearly included relief associations. The 2008 change in the statute was accompanied by a general definition of “political subdivision,” as it is used in Minn. Stat., Ch. 6, which can be found in Minn. Stat. § 6.465, subd. 2. This definition works for the rest of Minn. Stat., Ch. 6, but has the unfortunate and unintended consequence of rendering unclear the application Minn. Stat. § 6.65’s legal compliance audit requirement to relief association audits.

An optional change provided below clarifies that relief association audits are required to follow the minimum audit procedures prescribed by the OSA. This change is in keeping with the practice that auditors followed for decades prior to the 2008 law change, is in keeping with the practice that auditors should already be following, and is consistent with the requirements of all other local units of government.

69.051 FINANCIAL REPORT, BOND, EXAMINATION.

Subdivision 1. **Financial report and audit.** (a) The board of the Bloomington Fire Department Relief Association and each volunteer firefighters relief association as defined in section 424A.001, subdivision 4, with assets of at least \$500,000 or liabilities of at least \$500,000 in the prior year or in any previous year, according to the applicable actuarial valuation or according to the financial report if no valuation is required, shall prepare a financial report covering the special and general funds of the relief association for the preceding fiscal year, file the financial report, and submit financial statements.

(b) The financial report must contain financial statements and disclosures which present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in compliance with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial report must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief association is a firefighters relief association which is directly associated with a municipal fire department; or

(2) by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the volunteer firefighter relief association is a subsidiary of an independent nonprofit firefighting corporation and by the secretary of the independent nonprofit firefighting corporation; or

(3) by the chief financial official of the county in which the volunteer firefighter relief association is located or primarily located if the relief association is associated with a fire department that is not located in or associated with an organized municipality.

(c) The financial report must be retained in its office for public inspection and must be filed with the governing body of the government subdivision in which the associated fire department is located after the close of the fiscal year. One copy of the financial report must be furnished to the state auditor after the close of the fiscal year.

(d) Audited financial statements must be attested to by a certified public accountant or by the state auditor and must be filed with the state auditor within 180 days after the close of the fiscal year. Audits must be conducted in compliance with generally accepted governmental auditing standards, and section 6.65 governing audit procedures. The state auditor may accept this report in lieu of the report required in paragraph (c).

EFFECTIVE DATE: This section is effective January 1, 2020.

Exhibit G

Supplemental Survivor Benefits

Topic:

Currently, when a relief association pays a lump-sum survivor benefit to a surviving spouse or to a surviving child or children, the relief association is required to also pay a supplemental survivor benefit. The supplemental survivor benefit is equal to 20 percent of the survivor benefit amount, up to a maximum of \$2,000. If the survivor benefit has been paid to a designated beneficiary or to an estate, no supplemental benefit is payable. We have seen instances where a supplemental benefit has been paid, which results in benefit overpayments when relief associations incorrectly pay a supplemental benefit with survivor benefits paid to individuals other than a surviving spouse or children.

The intent of the supplemental benefit is to help offset state income taxes that must be paid on a pension or benefit distribution. Designated beneficiaries and individuals who receive a distribution through an estate likely have the same tax concerns or obligations as other recipients of a service pension or survivor benefit. The optional changes in subdivision 1 below authorize supplemental survivor benefits to a designated beneficiary or to an estate if there is no surviving spouse and there are no surviving children.

Below are the number of survivor benefit payments made during the last three years and the potential maximum cost to the state for reimbursement of the supplemental benefits.

2016: 18 survivor benefit payments, maximum cost to State = \$36,000
2015: 17 survivor benefit payments, maximum cost to State = \$34,000
2014: 15 survivor benefit payments, maximum cost to State = \$30,000

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. Definitions. For purposes of this section:

(1) "qualified recipient" means a volunteer firefighter who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter or, if none, the surviving child or children of a deceased active or deferred volunteer firefighter, or, if none, the designated beneficiary of the deceased active or deferred volunteer firefighter, or, if no beneficiary has been designated, the estate of the deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who:

(i) regularly renders fire suppression service, the performance or supervision of authorized fire prevention duties, or the performance or supervision of authorized emergency medical response activities for a fire department;

(ii) has met the statutory and other requirements for relief association membership; and

(iii) is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month;

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who:

(i) terminated active firefighting service, the performance or supervision of authorized fire prevention duties, or the performance or supervision of authorized emergency medical response activities; and

(ii) has sufficient service credit from the applicable relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension; and

(5) "volunteer firefighter" includes an individual whose services were utilized to perform or supervise fire prevention duties if authorized under section 424A.01, subdivision 5, and individuals whose services were used to perform emergency medical response duties or supervise emergency medical response activities if authorized under section 424A.01, subdivision 5a.

Subd. 2. Payment of supplemental benefit. (a) Upon the payment by a volunteer firefighters relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. This benefit is an amount equal to ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association and the retirement plan must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed \$2,000.

(c) For purposes of this section, the term "regular lump-sum distribution" means the pretax lump-sum distribution excluding any interest that may have been credited during a volunteer firefighter's period of deferral.

(d) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.

Subd. 3. State reimbursement. (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters relief association or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Subd. 4. In lieu of income tax exclusion. (a) The supplemental benefit provided by this section is in lieu of the state income tax exclusion for lump-sum distributions of retirement benefits paid to volunteer firefighters.

(b) If the law is modified to exclude or exempt volunteer firefighters' lump-sum distributions from state income taxation, the supplemental benefits under this section are no longer payable, beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump-sum distribution under section 290.032 or 290.0802.

EFFECTIVE DATE: This section is effective January 1, 2020, and applies to supplemental benefits paid in 2020 and thereafter.

Exhibit H
**Permitting Different Vesting Requirements
for Certain Return-to-Service Members**

Topic:

If a firefighter is paid a lump sum service pension or is receiving a monthly benefit service pension and the firefighter resumes active service and relief association membership, the firefighter is currently required to complete the same vesting requirements as all other members of the relief association to be eligible for a second service pension. There is interest in allowing relief associations to establish lower vesting requirements for firefighters who return to active service and membership after being paid a service pension.

Optional language is provided below that permits relief associations to define a shorter vesting requirement in their bylaws for members who resume active service and membership after being paid a service. Optional language below also permits a relief association to define a shorter vesting requirement for members who separate from active service with one fire department, have not been paid their service pension, and resume active firefighting with a subsequent fire department. To be eligible for the shorter vesting requirement a firefighter must provide notice of the firefighter's prior service to the subsequent relief association within 60 days of the firefighter's membership start date.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION.

Subd. 6. **Return to active firefighting after break in service.** (a) This subdivision governs the service pension calculation requirements of a firefighter who returns to active service after a break in service and applies to all breaks in service, except that the resumption service requirements of this subdivision do not apply to leaves of absence made available by federal statute, such as the Family Medical Leave Act, United States Code, title 29, section 2691, and the Uniformed Services Employment and Reemployment Rights Act, United States Code, title 38, section 4301, and do not apply to leaves of absence made available by state statute, such as the Parental Leave Act, section 181.941; the Leave for Organ Donation Act, section 181.9456; the Leave for Civil Air Patrol Service Act, section 181.946; the Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service Act, section 181.947; or the Protection of Jurors' Employment Act, section 593.50.

(b)(1) If a firefighter who has ~~a break in service~~ ~~ceased to perform or supervise fire suppression and fire prevention duties~~ for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, ~~and~~ if the bylaws of the relief association so permit, the firefighter may again become an active

member of the relief association. A firefighter who returns to active service and membership is subject to the service pension calculation requirements under this section.

(2) A firefighter who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(3) A person who has a break in service not exceeding one year but has not been granted an approved leave of absence ~~and who has not received a service pension or disability benefit~~ may be made exempt from the minimum period of resumption service requirement of this section by the relief association bylaws.

(4) If the bylaws so provide, a firefighter who returns to active relief association membership ~~after a break in service under this paragraph~~ may continue to collect a monthly service pension ~~from the relief association, notwithstanding the service pension eligibility requirements under chapter 424A that the firefighter has separated from active service.~~

(c) If a former firefighter who has ~~been paid received~~ a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2, ~~as applicable, or meets the resumption minimum service requirements specified in the relief association's bylaws.~~ No firefighter may be paid a service pension more than once for the same period of service.

(d) If a former firefighter who has not ~~been paid received~~ a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the original and resumption service periods if the firefighter meets the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the original and resumption years of service credit.

(e) A firefighter who returns to active lump-sum relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service.

(f) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (b), who did not meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active lump-sum relief

association membership under this paragraph, but who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(g) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (b), and if the relief association bylaws do not allow for the firefighter to continue collecting a monthly service pension, any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (c), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. A suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(h) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (b), who did not meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active relief association membership under this paragraph, but who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(i) For defined contribution plans, a firefighter who returns to active relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, and if the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, or meets the resumption minimum service requirement specified in the relief association's bylaws, as applicable, based on the resumption years of service, a second service pension for the resumption service period must be calculated to include allocations credited to the firefighter's individual account during the resumption period of service and deductions for administrative expenses, if applicable.

(j) For defined contribution plans, if a firefighter who had not been paid a service pension returns to active relief association membership under paragraph (b), and who

meets the minimum service requirement of section 424A.016, subdivision 3, based on the firefighter's original and resumption years of service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated to include allocations credited to the firefighter's individual account during the original and resumption periods of service and deductions for administrative expenses, if applicable, less any amounts previously forfeited under section 424A.016, subdivision 4.

Subd. 6a. Return to active firefighting after separation from service. A firefighter who has separated from active service with one fire department and who has not been paid a service pension from the associated relief association, and who returns to active firefighting with a subsequent fire department may qualify for a service pension for the resumption period of service if the firefighter meets the resumption minimum service requirement specified in the subsequent relief association's bylaws. The firefighter must give notice to the subsequent relief association of the firefighter's benefit accrued with the previous relief association within 60 days of joining the subsequent relief association.

1.1 Sec. Minnesota Statutes 2018, section 424A.001, is amended by adding a subdivision
1.2 to read:

1.3 Subd. 9a. **Break in service.** "Break in service" means temporarily ceasing all of the
1.4 following with a particular volunteer fire department:

1.5 (1) performing fire suppression duties;

1.6 (2) performing fire prevention duties;

1.7 (3) supervising fire suppression duties; and

1.8 (4) supervising fire prevention duties.

1.9 Sec. Minnesota Statutes 2018, section 424A.015, subdivision 6, is amended to read:

1.10 **Subd. 6. Governing benefit plan provisions.** A service pension or ancillary benefit
1.11 payable under this chapter is governed by and must be calculated under the general statute,
1.12 special law, relief association articles of incorporation, and relief association bylaw provisions
1.13 applicable on the earlier of the following dates:

1.14 (1) the date on which the member separated from active service with the fire department
1.15 and active membership in the relief association; or

1.16 (2) the date on which the member began a break in service with the fire department that
1.17 continued until the member separated from active service with the fire department and active
1.18 membership in the relief association.

Exhibit J

Vesting Requirements for Defined Benefit Plans

Topic:

Members of a relief association with a defined benefit plan must complete at least 20 years of active service to be fully (100 percent) vested. Vesting requirements for defined benefit plans have not changed since 1979, although firefighter demographics and the fire service as a whole have changed significantly since that time.

Permitting a shorter vesting requirement is seen by some as a way to help fire departments that are facing challenges in the recruitment and retention of firefighters. In addition, it seems that firefighters are more mobile than in the past, with fewer firefighters staying on a fire department for 20 years. The Office of the State Auditor's 2016 data shows that less than 20 percent of deferred members were fully vested.

The vesting requirements for defined contribution plans were changed during the 2004 Legislative Session. Defined contribution plans are permitted to allow full vesting after a member completes at least ten years of active service.

Optional changes are provided below that would clarify for both plan types that the statutory vesting percentages are maximums, and would allow defined-benefit plans to offer full vesting after ten completed years of active service.

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

Subd. 3. **Reduced vesting schedule.** If the articles of incorporation or bylaws of a defined contribution relief association so provide, a relief association may pay a reduced service pension not to exceed the maximum nonforfeitable percentage of the account balance to a retiring member who has completed fewer than 120 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 2. The maximum nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	<u>Maximum Nonforfeitable</u> Percentage of Pension
	Amount
5	40 percent
6	52 percent
7	64 percent
8	76 percent

9
10 and thereafter

88 percent
100 percent

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

Subd. 2. **Nonforfeitable portion of service pension.** (a) If the articles of incorporation or bylaws of a defined benefit relief association so provide, the relief association may pay a reduced service pension to a retiring member who has completed fewer than 120 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

(b) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws multiplied by the maximum applicable nonforfeitable percentage of pension.

(c) For a defined benefit volunteer firefighters relief association that pays a lump-sum service pension, a monthly benefit service pension, or a lump-sum service pension or a monthly benefit service pension as alternative benefit forms, the maximum nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	<u>Maximum</u> Nonforfeitable Percentage of Pension Amount
5	40 percent
6	52 44 percent
7	64 48 percent
8	76 52 percent
9	88 56 percent
10 <u>and thereafter</u>	100 60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

Volunteer firefighter definitions

Currently, volunteer firefighter is defined in the following statutory chapters:

- 299N – Firefighter training and education
- 353 – PERA General
- 353G – Statewide volunteer firefighter retirement plan
- 424A – Local volunteer firefighter relief associations

These definitions do not vary by much, but those differences may be important to their usage in each chapter. Some statutes not in these chapters specifically reference the definition in either 299N or 424A.

Undefined usage

Below is a categorization of sections that use the term “volunteer firefighter” without referencing a specific definition or volunteer firefighter or referencing a specific plan (and therefore, the plan’s definition):

Employment law

- 43A.32 – Volunteer firefighter agreements with state government employers
- 181.10 – General employment law payment of wages
- 268.047 and 268.085 – Unemployment insurance
- 412.15 – Statutory city housing aid authorization
- 420.20 – Prohibition of minors acting as firefighters (headnote only)
- 471.61 – Municipal law group benefits

Membership on boards

- 144E.01 – Emergency medical services regulatory board
- 299K.03 – Emergency response commission

Miscellaneous

- 169.58 – Emergency vehicle lights
- 465.90 – “Fill the boot” authorization
- 604A.01 – Good Samaritan law

Chapter 69

Of the chapters without a definition of volunteer firefighter, chapter 69 uses the term the most and in a variety of ways. In section 69.022, it specifically cross-references the definition in 299N. In other places, including 69.021, the reference to volunteer firefighter is derived from membership under sections 353G or 424A.

299N.03 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 299N.04 and 299N.05 have the meanings given them in this section.

Subd. 2. **Board.** "Board" means the Board of Firefighter Training and Education established under section 299N.02.

Subd. 3. **Chief firefighting officer.** "Chief firefighting officer" means the highest ranking employee or appointed official of a fire department, or the highest ranking employee or appointed official's designee for the purposes of this chapter.

Subd. 4. **Fire department.** "Fire department" has the meaning given it in section 299F.092, subdivision 6. For purposes of sections 299N.04 and 299N.05, fire department also includes a division of a state agency, regularly charged with the responsibility of providing fire protection to the state or a local government, to include a private, nonprofit fire department directly serving a local government, but does not include an industrial fire brigade.

Subd. 5. **Full-time firefighter.** A "full-time firefighter" means a person who is employed and charged with the prevention and suppression of fires within the boundaries of the state on a full-time, salaried basis and who is directly engaged in the hazards of firefighting or is in charge of a designated fire company or companies that are directly engaged in the hazards of firefighting. Full-time firefighter does not include a volunteer, part-time, or paid-on-call firefighter.

Subd. 6. **Licensed firefighter.** "Licensed firefighter" means a full-time firefighter, to include a fire department employee, member, supervisor, or appointed official, who is licensed by the board and charged with the prevention or suppression of fires within the boundaries of the state. Licensed firefighter may also include a volunteer firefighter.

Subd. 7. **Volunteer firefighter.** A "volunteer firefighter" means a person who is charged with the prevention or suppression of fires within the boundaries of the state on a volunteer, part-time, or paid-on-call basis. Volunteer firefighter does not include a full-time firefighter.

History: 2009 c 153 s 2; 2010 c 229 s 1; 2015 c 65 art 4 s 4-7

Insurance Act applicable to the member if the membership eligibility criteria are met under this chapter. A coordinated member also is a former basic member who has a complete and continuous separation for at least 30 days from employment as a public employee meeting the requirements specified in subdivision 28, paragraph (a), and who reenters public service as a public employee and meets the membership eligibility criteria under this chapter.

Subd. 33. **Basic member.** "Basic member" means a public employee, including a public hospital employee, who is not covered by any agreement or modification made between the state and the Secretary of Health and Human Services.

Subd. 34. [Repealed, 1982 c 404 s 10]

Subd. 35. **Volunteer ambulance service personnel.** "Volunteer ambulance service personnel," for purposes of this chapter, are basic and advanced life-support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity.

Subd. 36. **Volunteer firefighter.** For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A or credit in the retirement plan established under chapter 353G.

Subd. 37. **Normal retirement age.** (a) "Normal retirement age" means age 65 for a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, clause (6), before July 1, 1989. For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(1), as amended, but not to exceed age 66.

(b) "Normal retirement age" means age 55 for a person who is a member of a pension fund listed in section 356.30, subdivision 3, clauses (7) and (8).

Subd. 38. **Business year.** "Business year" means the first day of the first full pay period through the last day of the last full pay period of the 12-month fiscal year applicable to the respective governmental subdivision.

Subd. 39. [Repealed, 2002 c 392 art 3 s 9]

Subd. 40. [Repealed, 2010 c 359 art 5 s 28]

Subd. 41. **Duty disability.** "Duty disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the public employees police and fire retirement plan, and that is the direct result of an injury incurred during, or a disease arising out of, the performance of inherently dangerous duties that are specific to the positions covered by the public employees police and fire retirement plan.

Subd. 42. **Less frequent duties.** "Less frequent duties" means tasks which are designated in the applicant's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the applicant's job.

Subd. 43. **Line of duty death.** "Line of duty death" means:

353G.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the words or terms defined in this section have the meanings given to them unless the context of the word or term clearly indicates otherwise.

Subd. 2. **Advisory board.** "Advisory board" means the board established by section 353G.03.

Subd. 3. **Board.** "Board" means the board of trustees of the Public Employees Retirement Association operating under section 353.03.

Subd. 4. **Commissioner of management and budget.** "Commissioner of management and budget" means the state official appointed and qualified under section 16A.01.

Subd. 5. **Executive director; director.** "Executive director" or "director" means the person appointed under section 353.03, subdivision 3a.

Subd. 6. **Fund.** "Fund" means the voluntary statewide volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 7. **Good time service credit.** "Good time service credit" means the length of service credit for an active firefighter that is reported by the applicable fire chief based on the minimum firefighter activity standards of the fire department. The credit may be reported on an annual or monthly basis.

Subd. 7a. **Lump-sum account.** "Lump-sum account" means that portion of the retirement fund that contains the assets applicable to the lump-sum retirement division.

Subd. 7b. **Lump-sum retirement division.** "Lump-sum retirement division" means the division of the plan governed by section 353G.11.

Subd. 8. **Member.** "Member" means a volunteer firefighter who provides active service to a municipal fire department or an independent nonprofit firefighting corporation where the applicable municipality or corporation has elected coverage by the retirement plan under section 353G.05, and which service is covered by the retirement plan.

Subd. 8a. **Monthly benefit account.** "Monthly benefit account" means that portion of the retirement fund that contains the assets applicable to the monthly benefit retirement division.

Subd. 8b. **Monthly benefit retirement division.** "Monthly benefit retirement division" means the division of the plan governed by section 353G.113.

Subd. 9. **Municipality.** "Municipality" means a governmental entity specified in section 69.011, subdivision 1, paragraph (b), clauses (1), (2), and (5), a city or township that has entered into a contract with an independent nonprofit firefighting corporation, or a city or township that has entered into a contract with a joint powers entity established under section 471.59.

Subd. 9a. **Relief association.** "Relief association" means a volunteer firefighter relief association established under chapter 424A to which records, assets, and liabilities related to lump-sum or monthly benefits for active and former firefighters will be transferred from the retirement fund upon satisfaction of the requirements of section 353G.17.

Subd. 10. **Plan.** "Plan" means the retirement plan established by this chapter.

Subd. 10a. **Retirement benefit plan document.** "Retirement benefit plan document," for an account in the monthly benefit retirement division, means the articles of incorporation and bylaws of the prior former

volunteer firefighter relief association in effect on the day before the date on which the retirement coverage transfer under section 353G.05 occurred or as provided in the most recent modification under section 353G.121.

Subd. 11. **Retirement fund.** "Retirement fund" means the voluntary statewide volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 12. **Retirement plan.** "Retirement plan" means the retirement plan, either the lump-sum retirement division or the monthly benefit retirement division, established by this chapter.

Subd. 13. **Standards for actuarial work.** "Standards for actuarial work" means the standards adopted by the Legislative Commission on Pensions and Retirement under section 3.85, subdivision 10.

Subd. 14. **State Board of Investment.** "State Board of Investment" means the board created by article XI, section 8, of the Minnesota Constitution and governed by chapter 11A.

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of a municipal fire department or independent nonprofit firefighting corporation and who, in that capacity, engages in fire suppression activities, provides emergency response services, or delivers fire education or prevention services on an on-call basis.

History: 2009 c 101 art 2 s 109; 2009 c 169 art 9 s 10; 2015 c 68 art 8 s 2-10; 2018 c 211 art 16 s 4,5

424A.001 DEFINITIONS.

Subdivision 1. **Terms defined.** Unless the context clearly indicates otherwise, as used in this chapter, the terms defined in this section have the meanings given.

Subd. 1a. **Ancillary benefit.** "Ancillary benefit" means a benefit payable from the special fund of the relief association other than a service pension that is permitted by law and that is provided for in the relief association bylaws.

Subd. 1b. **Defined benefit relief association.** "Defined benefit relief association" means a volunteer firefighters relief association that provides a lump-sum service pension, provides a monthly benefit service pension, or provides a lump-sum service pension as an alternative to the monthly benefit service pension.

Subd. 1c. **Defined contribution relief association.** "Defined contribution relief association" means a volunteer firefighters relief association that provides a service pension based solely on an individual account balance rather than a specified annual lump-sum or monthly benefit service pension amount.

Subd. 2. **Fire department.** "Fire department" includes a municipal fire department, an independent nonprofit firefighting corporation, and a fire department established as or operated by a joint powers entity under section 471.59.

Subd. 2a. **Municipal.** "Municipal" means of a city or township.

Subd. 3. **Municipality.** "Municipality" means a city or township which has established a fire department with which the relief association is directly associated, a city or township which has entered into a contract with the independent nonprofit firefighting corporation of which the relief association is directly associated, or a city or township that has entered into a contract with a joint powers entity established under section 471.59 of which the relief association is directly associated.

Subd. 4. **Relief association.** (a) "Relief association" or "volunteer firefighters relief association" means a volunteer firefighters relief association or a volunteer firefighters division or account of a partially salaried and partially volunteer firefighters relief association that is:

(1) organized and incorporated as a nonprofit corporation to provide retirement benefits to volunteer firefighters under chapter 317A and any laws of the state;

(2) governed by this chapter and sections 424A.091 to 424A.095; and

(3) directly associated with:

(i) a fire department established by municipal ordinance;

(ii) an independent nonprofit firefighting corporation that is organized under the provisions of chapter 317A and that operates primarily for firefighting purposes; or

(iii) a fire department operated as or by a joint powers entity that operates primarily for firefighting purposes.

(b) "Relief association" or "volunteer firefighters relief association" does not mean:

(1) the Bloomington Fire Department Relief Association governed by Laws 2013, chapter 111, article 5, sections 31 to 42; Minnesota Statutes 2000, chapter 424; and Laws 1965, chapter 446, as amended; or

(2) the voluntary statewide lump-sum volunteer firefighter retirement plan governed by chapter 353G.

(c) A relief association or volunteer firefighters relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Subd. 5. **Special fund.** "Special fund" means the special fund of a volunteer firefighters relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters relief association.

Subd. 6. [Repealed, 2010 c 359 art 13 s 13]

Subd. 7. [Repealed, 2009 c 169 art 10 s 58]

Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality approves for a fire department that is a municipal department, or if the applicable contracting municipality or municipalities approve for a fire department that is an independent nonprofit firefighting corporation, includes fire department service rendered by fire prevention personnel.

Subd. 9. **Separate from active service.** "Separate from active service" means that a firefighter permanently ceases to perform fire suppression duties with a particular volunteer fire department, permanently ceases to perform fire prevention duties, permanently ceases to supervise fire suppression duties, and permanently ceases to supervise fire prevention duties.

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:

(i) is engaged in providing emergency response services or delivering fire education or prevention services as a member of a fire department;

(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 specified in the articles of incorporation or bylaws of the relief association.

Subd. 11. **Fiscal year.** The fiscal year for a volunteer firefighter relief association begins on January 1 of each calendar year and ends on December 31 of the same calendar year.

Subd. 12. **Membership start date.** Membership in a volunteer firefighter relief association begins upon the date of hire by a municipality, a joint powers board, or an independent nonprofit firefighting corporation with which the relief association is directly associated, unless otherwise specified in the relief association bylaws.

History: 1983 c 219 s 4; 1986 c 359 s 18,19; 1Sp1986 c 3 art 2 s 40; 1989 c 304 s 137; 1989 c 319 art 8 s 26; 1996 c 438 art 8 s 1,2; 2000 c 461 art 15 s 4; 2006 c 271 art 13 s 2,7; 2008 c 349 art 14 s 6,7; 2009 c 169 art 10 s 8-19; 2012 c 286 art 12 s 9; 2013 c 111 art 5 s 77,80; art 6 s 4; 2015 c 68 art 9 s 3; art 13 s 63; 2018 c 211 art 14 s 2-5

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means a volunteer firefighter who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter or, if none, the surviving child or children of a deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who:

(i) regularly renders fire suppression service, the performance or supervision of authorized fire prevention duties, or the performance or supervision of authorized emergency medical response activities for a fire department;

(ii) has met the statutory and other requirements for relief association membership; and

(iii) is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month;

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who:

(i) terminated active firefighting service, the performance or supervision of authorized fire prevention duties, or the performance or supervision of authorized emergency medical response activities; and

(ii) has sufficient service credit from the applicable relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension; and

(5) "volunteer firefighter" includes an individual whose services were utilized to perform or supervise fire prevention duties if authorized under section 424A.01, subdivision 5, and individuals whose services were used to perform emergency medical response duties or supervise emergency medical response activities if authorized under section 424A.01, subdivision 5a.

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer firefighters relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. This benefit is an amount equal to ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association must pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association and the retirement plan must pay a

supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed \$2,000.

(c) For purposes of this section, the term "regular lump-sum distribution" means the pretax lump-sum distribution excluding any interest that may have been credited during a volunteer firefighter's period of deferral.

(d) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.

Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters relief association or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided by this section is in lieu of the state income tax exclusion for lump-sum distributions of retirement benefits paid to volunteer firefighters.

(b) If the law is modified to exclude or exempt volunteer firefighters' lump-sum distributions from state income taxation, the supplemental benefits under this section are no longer payable, beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump-sum distribution under section 290.032 or 290.0802.

Subd. 5. [Repealed, 2013 c 111 art 6 s 13]

History: 1988 c 719 art 19 s 22; 1989 c 319 art 10 s 7; 1993 c 307 art 9 s 1; 2006 c 271 art 13 s 5; 2007 c 134 art 10 s 1-3; 2008 c 154 art 15 s 9; 2009 c 169 art 9 s 29-31; art 10 s 46-50; 2013 c 111 art 6 s 10,11; 2014 c 296 art 12 s 17; 2018 c 211 art 14 s 23