

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor
Thursday, December 4, 2008
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 6, 2008 Meeting Minutes
- III. Discussion of Sub-Group Forwarded Suggestions**
Exhibits B - D
- Deferred Interest (B)
 - Employment of Minors (C)
 - Authorized Administrative Expenses (D)
- IV. Discussion of Working Group Topic Suggestions**
Exhibits E - G
- Return to Service (E)
 - Breaks in Service (F)
 - Reporting Deadlines (G)
- V. Other Business**
- VI. Next Meeting**
Tuesday, December 16, 2008
11 a.m. to 1 p.m.
Office of the State Auditor
- VII. Adjournment**

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Thursday, November 6, 2008
11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)
Ed Dietz, Maplewood Fire Relief Association Treasurer (defined benefit lump sum plans)
Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)
Tim Simon, Elk River City Finance Director
Steven Wallner, Watertown City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Jim Hansen, Minnesota Area Relief Association Coalition Representative

Others Present

Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Edward Burek, Deputy Director of the Legislative Commission on Pensions and Retirement
Aaron Dahl, Pension Analyst
Anne Finn, League of Minnesota Cities Representative
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst
Michael Johnson, Pension Analyst
Mike Miller, Integra Shield Financial Group Representative
Laura Sayles, DFL House Caucus Research Consultant

The following motions were duly made, seconded and approved:

RESOLVED to approve the October 28, 2008 Working Group Meeting Minutes.

RESOLVED to adopt the topic list as the slate of discussion topics for the 2008/2009 Working Group.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the October 28, 2008 meeting minutes that had been provided in advance. Ganfield made a motion to adopt the meeting minutes. Simon seconded the motion, which was adopted unanimously.

III. Discussion of Working Group Topic Suggestions

At the last meeting the Working Group members decided to rank the proposed topics for the group to consider this season. The rankings were compiled after the last meeting. A list was provided to each member that showed the topic suggestions that received the highest rankings. The list also showed the items that were forwarded to the Working Group by the Defined Contribution Plan Sub-Group. Auditor Otto reminded the group that the Pension Commission and Office of the State Auditor will work on the technical topics, in addition to the items on the topic list. Jaeger made a motion to adopt the topic list. Dietz seconded the motion, which was adopted unanimously.

IV. Overview of Defined Contribution Plan Sub-Group Draft Legislation

- The group discussed the prohibition on employing minors. Martin explained that the current prohibition on employing minors is moved to a new section in the draft legislation. The new section is in a chapter of state law that pertains to firefighters' civil service commissions. A prohibition on allowing minors to be members of the relief association would remain in Chapter 424A in the sub-group's draft legislation. The intent was to separate the fire department employment provision from the relief association pension section.
- Ganfield suggested modifying the defined contribution relief association definition on page two of the draft to provide a better description of the plan type. The group agreed and Martin said that he would draft language.
- The group discussed the definition of the term "separate from active service." Ganfield suggested changing the definition so that it applies to just active members. Hennessy Allen expressed concern with the suggested change. The group agreed that they didn't want retired members to avoid helping at fire department functions, like open houses, for fear of having to repay their service pension under Minn. Stat. § 424A.02, subd. 9b. The group decided to revisit the separate from active service definition during the discussion on return to service issues and the subdivision 9b language.
- The group agreed to strike funeral benefits from the rollover authorization provision, as relief associations no longer have authority to pay funeral benefits from the special fund. Changes to strike funeral benefits from the supplemental benefit section were also agreed upon, along with allowing supplemental benefits to be paid upon the payment of a death benefit to an estate.
- Ganfield suggested specifying that the method of calculating service pensions must be applied uniformly for all complete years of active service. Hennessy Allen and

Grant expressed concerns with changing the current statutory language. Grant explained that the Office of the State Auditor has identified payment inconsistencies for members with breaks in service. She explained that this provision is trying to create uniformity, and is a provision that is referenced often. Martin also mentioned that this language will need to be revisited after the group discusses topic five, which would allow relief associations to define what constitutes a month of service.

- The group discussed several technical and grammatical changes to the draft legislation, including the rationale for using “may” instead of “must.” The group agreed to fix typos including missing spaces and a title change.
- Ganfield asked what type of consultant insurance is required under Minn. Stat. § 424A.04, subd. 3. Dietz explained that the consultant’s certificate of insurance shows all types of insurance that the consultant has. The relief association board of trustees, in keeping with its fiduciary duties, can then evaluate the consultant’s insurance and determine if it is sufficient.
- Ganfield suggested changing the definitions in the supplemental benefit section to be consistent with other definitions used in Chapter 424A. The group agreed and Martin said that it would be addressed as a technical change.

Another draft of the sub-group legislation will be provided for the Working Group’s review once the agreed upon changes have been incorporated. The Working Group will defer final action on the proposed legislation until the other topics have been discussed and any additional changes incorporated.

V. **Other Business**

The Working Group began discussing the topics forwarded by the Defined Contribution Plan Sub-Group. Auditor Otto explained that the group would hold off on taking formal action on the topics until the members have had time to discuss them with their constituents.

• **Deferred Interest**

Auditor Otto explained that the sub-group discussed whether defined contribution plans should be required to pay interest to deferred members. Paying deferred interest is currently optional for all relief associations. Anderson and Roed provided an explanation of the sub-group’s discussion and intent, and also stated that the proposed change would be to require that interest be paid to deferred members of defined contribution plans. Defined benefit plans would not be affected. Martin said that requiring interest to be paid could set a precedent, which the Working Group should consider. It was agreed that definitions of deferred interest and investment earnings would help to clarify the discussion. Auditor Otto said that additional information would be provided at a future meeting and the topic would be revisited.

• **Employment of Minors**

Under current law, minors are prohibited from serving in any capacity performing any firefighting duties with a volunteer fire department. The sub-group members raised concerns about Boy Scout explorer programs and students enrolled in degree programs. Anderson said that the sub-group only discussed allowing minors to assist in educational and prevention types of programs, and did not intend to allow minors to assist at fire

scenes. Grant provided information about requirements in the Labor and Industry statute, which provides for an exception on the employment of minors under continuous adult supervision as life guards. Grant said that a similar exception could be drafted for the fire department employment prohibition. Roed agreed that an exception should be added to the current prohibition, rather than removing the prohibition altogether. Auditor Otto said that Martin and Grant will draft language for the group to consider, with input from Finn and the League of Minnesota Cities.

- **Designated Beneficiary**

State law currently requires that a designated beneficiary be a natural person. This requirement was added to state law relatively recently. Auditor Otto explained that there was interest among the sub-group members in allowing survivor benefits to be paid to a trust, rather than a natural person. Martin said that the only time payments to a trust are permitted are in cases of a Supplemental Needs Trust. Pensions and benefits are paid to a natural person since the person has a natural end to his or her life, and it is clear when the payments will end. There was not interest among the Working Group members in proposing a change. Auditor Otto said that the topic could be revisited if the sub-group member that raised the concern is able to attend a meeting and share his perspective.

VI. Next Meeting

Tuesday, November 18, 2008

11 a.m. to 1 p.m.

Office of the State Auditor

VII. Adjournment

The meeting was adjourned shortly after 1:00.

Exhibit B

Topic:

Whether paying interest to deferred members of defined contribution plans should be mandatory or remain voluntary.

Current Law:

Member Type	Investment Allocation Options	Authorization
Active	Share in full gains/losses	424A.02, subd. 4
Deferred	Rate actually earned on separate account	424A.02, subd. 7
Deferred	Rate actually earned on separate investment vehicle	424A.02, subd. 7
Deferred	At a rate up to five percent, set by the board of trustees [Note: this option would be discontinued for DC plans under the sub-group legislation.]	424A.02, subd. 7
Deferred	Share in full gains/losses	424A.02, subd. 7

Current Practice:

All Plan Types		DC Plans Only	
Allocation Option	Percent of Plans	Allocation Option	Percent of Plans
None	58%	None	27%
Straight 5%	18%	Straight 5%	15%
Separate Account	3%	Separate Account	16%
Separate Vehicle	6%	Separate Vehicle	19%
OSA Return up to 5%	11%	OSA Return up to 5%	5%
Board Return up to 5%	2%	Board Return up to 5%	0%
DC Full Gains/Losses	2%	DC Full Gains/Losses	18%

Please be aware that the percentages contained in these tables are for general comparison purposes only. The numbers are not audited and, for some plans, are based upon 2006 reporting information.

Options:

1. Make no changes. This means that allocating investment earnings (and losses) to deferred members remains voluntary.
2. Require that defined contribution plans allocate investment earnings (and losses) to deferred members. Each defined contribution plan could choose an allocation option from those available under state law.
3. Define terms and address the issue through training.

Exhibit C

Topic:

Whether the current statutory prohibition on employing minors should be changed to accommodate explorer programs.

Current Law:

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

Subdivision 1. **Minors.** It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department.

Optional Change:

420.20 PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department, except for members of an educational organization or program, such as but not limited to a Boy Scout Explorer Program or students enrolled in a firefighting degree program, who participate with uninterrupted adult supervision, as allowed by federal law.

Exhibit D

Topic:

Whether special fund assets should be allowed to be used to purchase insurance only from the Volunteer Firefighters Benefit Association, or also from a comparable insurance company licensed by the State of Minnesota.

Current Law:

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements from the special fund are not permitted to be made for any purpose other than one of the following:

- (1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;
- (2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (3) for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active firefighter, if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (4) for the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;
- (5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association in order to entitle relief association members to membership in and the benefits of these associations or organizations; and
- (6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

Optional Change:

- (5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association, or comparable insurance company licensed by the State of Minnesota, in order to entitle relief association members to membership in and the benefits of these associations or organizations; and

Exhibit E

Topic:

Change or eliminate the penalties on resuming active service after being paid a service pension, to address recruitment and retention issues.

Current Law:

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subd. 9b. **Repayment of service pension in certain instances.** If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person shall repay any previously received service pension.

Options:

1. Make no change and educate relief association members on the consequences of resuming active service after retirement.
2. Allow members to resume active service after retirement with some (or none) of the following conditions:
 - a) Require that members wait a certain length of time before resuming active service;
 - b) Require that members repay their previously received service pension;
 - c) Prohibit the accrual of any additional service credit;
 - d) Allow to “start over” and accrue additional service credit (i.e., two separate pensions);
 - e) Allow to perform limited tasks without being considered an active firefighter.

Exhibit F

Topic:

Discuss service pension calculations for members with a break in service.

Issue:

Many relief association members take a leave of absence or have a break in service during their tenure as a firefighter. Some relief associations have implemented bylaw provisions in an attempt to “protect” their association from members that repeatedly leave and rejoin, or rejoin for just a short period of time to take advantage of benefit increases that occurred during their absence. There are uniformity requirements under state law, so bylaw provisions that change the method of calculating pensions for members with a break in service are sometimes not allowed.

Current Law:

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. **Authorization.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, if the bylaws or articles of incorporation of the relief association so provide. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69.

Subd. 6. **Payment of service pensions; nonassignability.** The method of calculating service pensions shall be applied uniformly for all years of active service and credit shall be given for all years of active service, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective fire department, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association. No service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits shall be subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may

assign any service pension or ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

Current Practice:

1. Place no limitations on rejoining active service after a leave of absence or break in service.
2. Limit the length of time that a member can be inactive. Members are prohibited from resuming active service if the break in service exceeds the limit.
3. Require that members remain in active status for at least a certain length of time to be eligible for any benefit increases that occurred during the member's break in service.
4. Treat the member's period of service as two separate periods for pension purposes (i.e., the member's pension is split and calculated separately for each period of service). This practice is not currently authorized.

Options:

1. Make no change and provide education on this topic.
2. Eliminate Section 424A.02, subd. 1 (a) (5), which allows relief associations to establish additional conditions as to age, service, and membership.
3. Add language to Section 424A.02, subd. 1 (a) (5) that allows relief associations to establish additional conditions provided that they "do not change the method of calculating service pensions which is to be applied uniformly for all years of active service."
4. Remove "except as otherwise provided in this section" from Section 424A.02, subd. 6.
5. _____

Exhibit G

Topic:

Review the reporting deadlines and reconsider the \$200,000 audit threshold.

Current Law:

Relief associations “with assets of at least \$200,000 or liabilities of at least \$200,000 in the prior year or in any previous year” are required to submit an audit report. (Minn. Stat. § 69.051, subd. 1.)

A city with a population of 2,500 or less and a combined clerk/treasurer must have an annual audit for 2007 if its annual revenue is greater than \$178,000. A city with a combined clerk/treasurer and annual revenue of \$178,000 or less must have an audit once every five years.

A city with a population over 2,500 must have an annual audit performed.

A town with a population over 2,500 and 2007 annual revenue greater than \$794,000 must have an annual audit.

A town with a combined clerk/treasurer must have an annual audit for 2007 if its annual revenue was greater than \$178,000. A town with annual revenue of \$178,000 or less must have an audit once every five years.

Current Practice:

Number of relief associations with and without the audit requirement for the past three years.

Year	Number Under \$200,000	Number Over \$200,000
2007	256	461
2006	287	428
2005	322	392

Summary of form submission trends for the 2007 Reporting Year.

Plans Under \$200,000		Plans Over \$200,000	
Days Early/Late	Percent of Plans	Days Early/Late	Percent of Plans
At Least 30 Days Early	1%	At Least 30 Days Early	5%
0 to 30 Days Early	18%	0 to 30 Days Early	40%
1 to 30 Days Late	26%	1 to 30 Days Late	23%
31 to 60 Days Late	17%	31 to 60 Days Late	11%
61 to 90 Days Late	8%	61 to 90 Days Late	5%
At Least 91 Days Late	30%	At Least 91 Days Late	16%

Options:

1. Make no changes.
2. Change the audit threshold; keep it at a fixed amount.
3. Change the audit threshold to a variable amount that increases based on inflation or some other factor.