

Minnesota Volunteer Fire Relief Association
Working Group Meeting

Office of the State Auditor
Monday, November 19, 2012
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Introductions**
- III. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft February 7, 2012 Meeting Minutes
- IV. Working Group Process Discussion**
Exhibits B through E.
 - Working Group Meeting Schedule
 - Working Group Purpose Statement
 - Working Group Process
 - Working Group Membership List
- V. Discussion of Working Group Topic Suggestions**
- VI. Review of Draft Language for Technical Changes**
Exhibit F.
- VII. Discussion of Supplemental Survivor Benefit Issues**
Exhibit G.
- VIII. Other Business**
- IX. Next Meeting**
Wednesday, November 28, 2012
11 a.m. to 1 p.m.
Office of the State Auditor
- 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 November 14, 2012.

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Tuesday, February 7, 2012

11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)

Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)

Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)

Dave Jaeger, Mahnomon Fire Relief Association Treasurer (defined benefit lump sum plans)

John King, Minnesota State Fire Department Association Representative

Larry Martin, Legislative Commission on Pensions and Retirement Director

Rebecca Otto, State Auditor

Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)

Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Tim Simon, Elk River City Finance Director

Steven Wallner, Watertown City Finance Director

Others Present

Colleen Bollom, Minnesota Firefighter Pension Consultants Representative

Aaron Dahl, Office of the State Auditor Pension Analyst

Celeste Grant, Deputy State Auditor/General Counsel

Rose Hennessy Allen, Office of the State Auditor Pension Director

Jim Jensen, Office of the State Auditor Pension Analyst

Michael Johnson, Office of the State Auditor Pension Analyst

Aaron Johnston, Coon Rapids Fire Relief Association Representative

Brian McKnight, Wells Fargo Advisors Representative

The following motions were duly made, seconded and approved:

RESOLVED to approve the January 17, 2012, Working Group Meeting Minutes;

RESOLVED to adopt language that clarifies the deferred status of persons who discontinue their volunteer firefighter duties and who are employed on a full-time basis;

RESOLVED to adopt language that establishes a default method for crediting interest and additional investment performance to deferred members, unless the bylaws specify a different crediting method;

RESOLVED to adopt language for technical changes that provide greater clarity, remove outdated references, and eliminate duplicative language; and

RESOLVED to adopt language that clarifies the deferred service pension eligibility requirements.

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 January 17, 2012, meeting minutes that had been provided in advance. Zikmund made a motion to adopt the meeting minutes. Anderson seconded the motion that was adopted unanimously.

III. Review of Draft Deferred Service Pension Changes

The Working Group members reviewed revised language that provides an exception to the requirement that members must separate from active service and membership to become deferred. The exception applies to persons who have discontinued their volunteer firefighter duties and who are employed as firefighters on a full-time basis, subject to certain requirements. Ganfield made a suggestion to reorganize the placement of the exception for greater clarity. Grant and Martin will consider the suggestion. Hemstad made a motion to adopt the draft language, with it being effective the date following final enactment. Anderson seconded the motion that was adopted unanimously.

The members also reviewed draft language relating to how interest or additional investment performance is calculated and credited to deferred members. The revised draft sets forth defaults for the crediting method, unless a relief association's bylaws specify a different method that includes the crediting starting date and ending date. Anderson made a motion to adopt the defined contribution plan draft language, with an effective date of January 1, 2013. Roed seconded the motion that was adopted unanimously.

Per Martin's suggestion, the members agreed that language should be added to make it clear the changes only apply to members who become deferred on or after the date the bill becomes effective, and not to currently deferred members. Hemstad made a motion to adopt the amended defined benefit plan draft language, with an effective date of January 1, 2013. King seconded the motion that was adopted unanimously.

IV. Final Review of Approved Changes

The Working Group members reviewed language for several technical changes that provide greater clarity, remove out-dated references, and eliminate duplicative language. The language had been discussed and approved during previous Working Group meetings. Ganfield made a motion to adopt the language for the technical changes. Zikmund seconded the motion that was adopted unanimously.

The members reviewed language that clarifies the deferred service pension eligibility requirements. The language had been discussed and approved during previous Working Group meetings. Zikmund made a motion to adopt the language, with an effective date of January 1, 2013. Duncan seconded the motion that was adopted unanimously.

V. Discussion of IRS Tax-Exempt Issues

Zikmund reported that a group of several fire service organizations retained a law firm that has prepared packets that are available for purchase. The packets include instructions and forms needed for a relief association to seek a tax-exemption or obtain reinstatement of its tax-exemption with the IRS. There also is a longer-term issue that he thinks should be pursued which is the future elimination of the 990 filing requirement for fire relief associations. This is a federal issue that would take time and energy to try and resolve. Grant reminded the members that relief associations must address tax-exemption issues because there are negative ramifications if nothing is done.

VI. Other Business

Otto provided the members with an update on the status of the 2011 Working Group bill. Martin indicated that the 2011 bill would probably be heard by the Pension Commission during the same meeting in which the 2012 bill is heard.

Otto also shared that the Office of the State Auditor released a sample bylaw guide, which is available online. Zikmund noted that the Minnesota State Fire Chiefs Association formally applauds the Office of the State Auditor for its efforts to create and provide the sample bylaw guide.

Zikmund shared that the Minnesota Firefighter Memorial will be dedication ceremony will be on September 30 at 2:00 p.m.

Finally, Otto thanked the Working Group members for their hard work on this year's Working Group bill.

VII. Adjournment

The meeting was adjourned shortly before 1:00.

Exhibit B
Working Group Meeting Schedule

Monday, November 19, 2012

Wednesday, November 28, 2012

Tuesday, December 4, 2012

Tuesday, December 18, 2012

Tuesday, January 15, 2013

State Auditor Rebecca Otto, Chair
Office of the State Auditor Conference Room
11:00 a.m. to 1:00 p.m.

Exhibit C
Working Group Purpose Statement

To identify and work through current and pressing relief association issues. We will do this by bringing together the major volunteer fire relief association stakeholders to develop relationships, facilitate communication, discuss relief association issues and make the Pension Process easier and more effective. The ultimate goal is to help volunteer fire relief association plans be successful.

Exhibit D

Working Group Process

- Identify and discuss topics and make recommendations to clarify state laws,*
- Forward suggested statutory changes to the Legislative Commission on Pensions and Retirement, and
- Identify ways to simplify reporting forms, identify training needs and other issues.

*Unanimous consent is required for all proposals to move forward, although proposals that receive only one dissenting vote may be revisited and reconsidered.

Exhibit E
Working Group Membership List
2012/2013

- 1. City Finance Manager**
Tim Simon, Finance Director
City of Elk River
13065 Orono Parkway
Elk River, MN 55330
Phone: (763) 635-1000
Fax: (763) 635-1090
tsimon@elkrivernm.gov
- 2. Defined Contribution Plans**
Aaron Johnston, Treasurer
Coon Rapids Fire Relief Association
2831 – 113th Avenue NW
Coon Rapids, MN 55433
Phone: (763) 767-6429
ajohnston@coonrapidsmn.gov
- 3. Defined Benefit Lump Sum Plans**
Bruce Duncan, President
Excelsior Fire Relief Association
24100 Smithtown Road
Shorewood, MN 55331
Phone: (651) 297-3975
Fax: (952) 960-1690
bruce.duncan@state.mn.us
- 4. Legislative Commission on Pensions & Retirement**
Lawrence A. Martin, Director
55 State Office Building
Saint Paul, MN 55155
Phone: (651) 296-2750
Fax: (651) 297-3697
lisa.dieslin@lcpr.leg.mn

- 5. Defined Benefit Lump Sum Plans**
Bruce Hemstad, Secretary
Bemidji Fire Relief Association
318 – 5th Street N.W.
Bemidji, MN 56601
Phone: (218) 766-0014
bruce.hemstad@gmail.com
- 6. Minnesota State Fire Chiefs Association/Monthly Plans**
Nyle Zikmund, Chief
Spring Lake Park, Blaine & Mounds View Fire Department
1710 County Highway 10 NE
Spring Lake Park, MN 55432
Phone: (763) 786-4436
nzikmund@sbfmfire.com
- 7. Defined Benefit Monthly/Lump Sum Combination Plans**
Dave Ganfield, Administrator
Apple Valley Fire Relief Association
7100 – 147th Street West
Apple Valley, MN 55124
Phone: (612) 598-6369
dganfield@hotmail.com
- 8. Minnesota State Fire Department Association**
Mark Rosenblum, Member
Golden Valley Fire Relief Association
6325 Olympia Street
Golden Valley, MN 55427
(612) 597-2096
valleyfire25@yahoo.com
- 9. City Official**
Steve Donney, Mayor
City of Harmony
PO Box 175
Harmony, MN 55939
Phone: (507) 951-4320

stdonney2002@yahoo.com

10. Defined Benefit Lump Sum Plans

Dave Jaeger, Treasurer
Mahnomen Fire Relief Association
116 SW Roosevelt Street
Mahnomen, MN 56557
Phone: (218) 935-5668
Fax: (218) 935-2574
jaegerd68@gmail.com

11. Defined Contribution Plans

Bruce Roed, Trustee
Mentor Fire Relief Association
14945 Maple Inn Road S.E.
Mentor, MN 56736
(320) 333-2817
bruce.roed@state.mn.us

12. State Auditor Rebecca Otto

Suite 500
525 Park Street
Saint Paul, MN 55103
Phone: (651) 296-2551
Fax: (651) 282-5298
state.auditor@osa.state.mn.us

Exhibit F Technical Changes

Technical Change #1:

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

...

Subd. 6. Return to active firefighting after break in 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, 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 period of service and deductions for administrative expenses, if applicable, less any amounts previously forfeited under section 424A.016, subdivision 4.

Technical Change #2:

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

...

Subd. 6. **Return to active firefighting after break in service.** (a) ~~The requirements of this section apply~~ This subdivision applies to all breaks in service, except ~~breaks in service mandated by~~ that the resumption service requirements of this subdivision do not apply to breaks in service protected by federal or state law.

**Technical Change #3:
424A.0001 DEFINITIONS.**

...

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

**Technical Change #4:
424A.015 GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS'
RELIEF ASSOCIATION PENSION PLAN REGULATION.**

...

Subd. 4. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, and that provides a single payment service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension or the ~~death or~~ survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the Internal Revenue Code, as amended.

**Technical Change #5:
424A.015 GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS'
RELIEF ASSOCIATION PENSION PLAN REGULATION.**

Subdivision 1. Separation from active service; exception.

(a) No service pension is payable to a person while the person remains an active member of the respective fire department, and a person who is receiving a service pension is not entitled to receive any other benefits from the special fund of the relief association.

(b) No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person ~~is employed subsequent to retirement by~~ discontinues volunteer firefighter duties with the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

Exhibit G

Supplemental Survivor Benefits

Issues:

1. Currently, supplemental survivor benefits can be paid to the surviving spouse or, if none, to the surviving child or children of a deceased active or deferred volunteer firefighter. There is no authority to pay a supplemental survivor benefit to a designated beneficiary. It is not uncommon for a survivor benefit, though, to be paid to a designated beneficiary, and relief association trustees have questioned why the designated beneficiary cannot receive the supplemental survivor benefit, too. 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 most 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 payments to a designated beneficiary if there is no surviving spouse and there are no surviving children.

2. A relief association must authorize in its bylaws or articles of incorporation the payment of a supplemental survivor benefit to be eligible to pay the benefit. In contrast, relief associations are required to pay a supplemental benefit to the recipient of a service pension. Some relief associations mistakenly pay a supplemental survivor benefit without authorizing language in their bylaws or articles. Other relief associations delay payment of the survivor benefit until they have amended the bylaws to authorize the supplemental survivor benefit payment, which can take time. The optional changes in subdivision 2 below require that supplemental survivor benefits be paid upon the payment of a survivor benefit to a survivor of a deceased active or deferred volunteer firefighter, and eliminates the requirement that the supplemental payment be authorized in the relief association's bylaws or articles.

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

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

(1) "qualified recipient" means an individual 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 for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter ~~under section 424A.001, subdivision 6,~~ 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;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a municipal fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who 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; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, 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.

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 ~~may~~ 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 ~~if its articles of incorporation or bylaws so provide~~ and the retirement plan ~~may~~ 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) 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. Retroactive reimbursement in certain instances.

A supplemental survivor benefit may be paid by a relief association for the death of an active volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August 1, 2005, if the relief association articles of incorporation or bylaws provide for a supplemental survivor benefit and provide for retroactivity.



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November 19, 2012