

2015 Legislative Update

for Volunteer Fire Relief Associations

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Introduction

The Omnibus Retirement Bill signed into law on May 25, 2015, contains a number of provisions that affect volunteer fire relief associations. Many of the changes were based on suggestions made by the Volunteer Fire Relief Association Working Group. Included are technical changes that corrected and clarified statutory references and updates to meet current drafting standards.

Information is also included in this Update about other bills passed by the Legislature this year that impact volunteer fire relief associations, but were not developed by the Working Group.

Will We Need to Make Changes to Our Bylaws?

The technical changes most likely will not require changes to your relief association's bylaws, unless your bylaws reference specific statutory citations or quote language that has been changed. We will update our Selected Relevant Statutes booklet once the 2015 statutes are available. The booklet will allow your relief association to compare its bylaw language with the new statutory language.

The Office of the State Auditor (OSA)'s Sample Bylaw Guides have been updated to reflect the recent law changes. The bylaw guides are available in both MS Word and PDF formats on our website at: <http://www.auditor.state.mn.us/default.aspx?page=20120208.000>.

Your relief association should consult an attorney for answers to specific questions regarding your relief association's bylaws.

A copy of the 2015 Omnibus Retirement Bill can be found at the link provided below. The Working Group provisions are located in Article 9.

<https://www.revisor.mn.gov/laws/?year=2015&type=0&doctype=Chapter&id=68>.

Accountant Certification Requirements

Beginning with next year's reporting cycle, a relief association with assets and liabilities of less than \$500,000 will be required to have its financial reporting form attested to by a certified public accountant or the state auditor using a process defined in statute. An Agreed-Upon Procedures engagement developed by the OSA will provide minimum procedures and a reporting format that the relief association's certified public accountant will follow during the engagement.

Draft copies of the Agreed-Upon Procedures guide and report will be provided to accountants and auditors this fall for their review and comment before the guide and report are finalized for implementation next spring.

Additionally, the certified public accountant performing the engagement must sign the relief association's annual financial reporting form.

Certified public accountants and auditors who perform the attestation must now promptly report evidence of theft or other financial misconduct to the OSA and to the county attorney.

Effective Date: The effective date, July 1, 2015, applies to financial statements prepared for calendar year 2015 and thereafter.

Additional Information:

When finalized, the Agreed-Upon Procedures guide and report will be available on the OSA website at: <http://www.auditor.state.mn.us/default.aspx?page=accountingdocs>. The report and guide currently in use by certain small cities, towns, and special districts are posted on this webpage and serve as an example for a relief association's accountant or auditor.

Information about reporting financial concerns to the OSA, and a link to the reporting form, can be found on the OSA website at: <http://www.auditor.state.mn.us/default.aspx?page=reportingfinancialconcerns>.



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Sample Bylaw Guide

See Article II, section 2 of the Sample Bylaw Guides for sample language defining a member's start date.

Membership Start Date

When membership in a relief association begins varies. Some fire departments require probationary periods or training periods when a firefighter is first hired. Questions have arisen about whether relief association membership begins on the date a firefighter is hired, for example, or following completion of any required probationary or training period.

A firefighter's start date in the relief association is now defined in statute. The definition states that membership in a relief association begins upon the date of hire by a municipality, a joint powers board, or an independent nonprofit firefighting corporation, unless otherwise specified in the relief association bylaws.

Relief associations, therefore, may define a different membership start date in their bylaws if they prefer something other than the statutory default.

Effective Date: January 1, 2016.

Multiple Signatures Required

Minnesota law generally requires multiple signatures on checks written by cities, towns, and counties. In addition to being required by statute, multiple signatures are part of an entity's system of internal controls. When more than one person signs a check, each person is verifying that the governing body has approved the check for payment.

Relief associations are also now required to follow this good-governance practice. Minnesota law requires special fund disbursements paid by check to be signed by the relief association treasurer and by at least one other trustee who is designated as a signer by the board of trustees. Electronic or wire funds transfers are also permitted if internal control policies and procedures are established and approved by the board of trustees. The policies and procedures must provide for authentication of the electronic disbursements by the relief association treasurer and at least one other trustee.

Effective Date: July 1, 2015.

Maximum Benefit Levels

Statute requires that relief associations with defined-benefit plans (lump-sum, monthly, and monthly/lump-sum combination plans) calculate annually the maximum allowable benefit level. The OSA provides relief associations with a form called the Maximum Benefit Worksheet for performing the calculation. A relief association does not have the statutory authority to set a benefit level higher than the maximum level, even if the benefit level is ratified by the affiliated municipality.

If a relief association pays a service pension using a benefit level that exceeds the maximum allowable benefit level, statute requires that a penalty be imposed. The penalty for the relief association is disqualification from receipt of further fire state aid and a requirement that the relief association treasurer recover the amount of the overpaid service pension from any retired firefighter who received an overpayment.

Statute was changed to provide the OSA with discretion to exempt a relief association from the loss of fire state aid if the payment was in error and made in good faith and if certain additional conditions are met.

Effective Date: May 26, 2015.

Additional Information: See the OSA's Statement of Position on Maximum Benefit Levels at: <http://www.auditor.state.mn.us/default.aspx?page=20110531.003>.

Supplemental State Aid

The 2013 Legislature established a new supplemental state aid program to provide additional funding for fire and police retirement plans. An annual appropriation of \$15,500,000 will be made. Of this appropriation, about \$5.5 million will be allocated annually for volunteer firefighter pensions. The remaining amount will be allocated to the police and fire fund administered by the Public Employees Retirement Association (PERA) and to the state patrol plan administered by the Minnesota State Retirement System.

The supplemental state aid program was initially set to terminate automatically when the funding ratio of the PERA police and fire fund and the state patrol plan equals or exceeds 90 percent, whichever occurred last.

The 2015 Omnibus Retirement Bill now makes permanent the supplemental state aid program for volunteer firefighter pensions. The \$5.5 million appropriation will not expire unless a future legislature changes the program. The aid program will terminate for the PERA police and fire fund and the state patrol plan after both plans reach 90 percent funding.

The legislative change making the supplemental state aid program permanent for volunteer firefighter pensions was not part of the Working Group bill, but was added as an amendment to the bill when the bill was heard by the Legislative Commission on Pensions and Retirement.

The supplemental state aid amount that a relief association receives will be equal to a portion of the proportionate share that each association currently receives of fire state aid. Lists of state aid amounts for each relief association are available on the OSA website at:

<http://www.auditor.state.mn.us/default.aspx?page=20120214.000>.

A state aid payment is usually made by an electronic funds transfer from the State to the municipality affiliated with the relief association. The supplemental state aid and fire state aid are paid in two separate transfers, with both transfers occurring on the same date. The municipality must transfer the supplemental state aid and fire state aid to the treasurer of the relief association within 30 days of receipt for deposit into the association's special fund.

Payroll Deductions for Relief Association Dues and Wage Payments

Sample Bylaw Guide

See Article II, Section 3 for sample language on the deposit of membership dues.

Several years ago, a relief association inquired about setting up an arrangement with its affiliated city or town so that its membership dues would be withheld from firefighters' per-call payments. Under the arrangement, the city or town would deduct the amount of the relief association membership dues from a firefighters' payment, collect the dues for all participating firefighters, and transmit the collected dues to the association. Minnesota law did not permit it.

During the 2015 legislative session, the League of Minnesota Cities sought and obtained a change to the Minnesota law on paychecks and wages to allow membership dues of a relief association to be deducted from payroll if the employer and the employee both agree.

Relief associations are not required to collect dues from their members. If they do the process must be reflected in the bylaws. A relief association may deposit membership dues into its special fund or into its general fund. The relief association's bylaws should clearly identify which fund will be credited with membership dues.

Another change that the League of Minnesota Cities obtained was to permit wages to volunteer firefighters, first responders, volunteer ambulance drives and attendants, and their employers to be paid less frequently if an employer and employee mutually agree. Generally, employees must be paid at least every 31 days. The new law permits volunteer firefighters to be paid on an annual, biannual, or quarterly basis.

Effective Date: May 23, 2015, for the frequency of wages change and August 1, 2015, for the payroll deduction of membership dues change.

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