

A bill for an act

relating to retirement; volunteer fire relief associations; making various technical corrections; revising break-in-service return to firefighting authorizations; authorizing Minnesota deferred compensation plan service pension transfers; revising payout defaults in survivor benefits; authorizing corrections of certain special fund deposits; amending Minnesota Statutes 2008, section 356A.06, subdivision 8; Minnesota Statutes 2009 Supplement, sections 69.772, subdivision 6; 69.773, subdivision 6; 424A.01, subdivisions 1, 6; 424A.015, by adding a subdivision; 424A.016, subdivisions 4, 7; 424A.02, subdivisions 9, 10; 424A.05, subdivision 3, by adding a subdivision; repealing Minnesota Statutes 2009 Supplement, section 424A.001, subdivision 6; Laws 2009, chapter 169, article 10, section 32.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2009 Supplement, section 69.772, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), ~~or~~ and if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a

H.F. No. 3281, as introduced - 86th Legislative Session (2009-2010) [10-5059]

surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as 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 a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to 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 retirement benefits payable after that date may 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 the day following final enactment.

Sec. 2. Minnesota Statutes 2009 Supplement, section 69.773, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 4, ~~or~~ and if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section,

H.F. No. 3281, as introduced - 86th Legislative Session (2009-2010) [10-5059]

the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of 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 pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to 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 retirement benefits payable after that date may 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 the day following final enactment.

Sec. 3. Minnesota Statutes 2008, section 356A.06, subdivision 8, is amended to read:

Subd. 8. **Minimum liquidity requirements.** A covered pension plan described by subdivision 6, ~~paragraph (a) or 7~~, in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 1, is amended to read:

Subdivision 1. **Minors.** ~~(a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a~~

H.F. No. 3281, as introduced - 86th Legislative Session (2009-2010) [10-5059]

~~relief association member a minor serving as a firefighter, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.~~

(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 6, is amended to read:

Subd. 6. **Return to active firefighting after break in service.** (a) The requirements of this section apply to all breaks in service, except breaks in service mandated by federal or state law.

(b)(1) If a former active firefighter who has 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, if the bylaws of the relief association so permit, the person 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 under this paragraph may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under chapter 424A.

~~(b)~~ (c) If a former firefighter who has received a service pension or disability benefit returns to active relief association membership under paragraph (a) (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 a minimum period of resumption service specified in

~~the relief association bylaws~~ the service requirements of section 424A.016, subdivision 3, or section 424A.02, subdivision 2.

(d) If a former firefighter who has not 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 minimum period of resumption service specified in the relief association bylaws and the service requirements of section 424A.016, subdivision 3, or section 424A.02, subdivision 2.

~~(c)~~ (e) A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph ~~(b)~~ (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 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 to apply 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. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, or section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(d)~~ (f) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph ~~(a)~~ (b), who does not qualify for a service pension under paragraph ~~(b)~~ (d), but who does meet the minimum service requirement of section 424A.016, subdivision 3, or section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on 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.

~~(e)~~ (g) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph ~~(a)~~ (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 ~~(b)~~ (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. ~~The~~ 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 to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(f)~~ (h) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph ~~(a)~~ (b), who does not qualify for a service pension under paragraph ~~(b)~~ (d), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on 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.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2009 Supplement, section 424A.015, is amended by adding a subdivision to read:

Subd. 5. **Minnesota deferred compensation plan transfers.** A relief association may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension amount to the requesting member's account in the Minnesota deferred compensation plan, if:

- (1) the governing articles of incorporation or bylaws so provide;
- (2) the volunteer firefighter participates in the Minnesota deferred compensation plan at the time of retirement; and
- (3) the applicable retiring firefighter requests in writing that the relief association do so.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 4, is amended to read:

Subd. 4. **Individual accounts.** (a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

(1) any amounts of fire state aid received by the relief association;

(2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and

(3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) If the bylaws so permit and as the bylaws define, the relief association may credit any investment return on the assets of the special fund to the accounts of inactive members.

(d) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

~~(d)~~ (e) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of

the relief association based on the number of years of service to the credit of the retiring member.

~~(e)~~ (f) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 7, is amended to read:

Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested ~~or~~ and nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c)(1) If a survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

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

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

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

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

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

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a trust created under chapter 501B may be a designated beneficiary. If a trust payable to the surviving child or children organized under chapter 501B has been established as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding the requirements of this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 9, is amended to read:

Subd. 9. **Limitation on ancillary benefits.** A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 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 for a lump-sum service pension to a retiring member, 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.

(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 child or 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 child or children; or

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

(ii) If there is no surviving child or 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 child or 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 child or children; or

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

(ii) If there is no surviving child or 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 501B may be a designated beneficiary. If a trust is payable to the surviving child or children organized under chapter 501B 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 the day following final enactment.

Sec. 10. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 10, is amended to read:

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 each municipality served by the fire department to which the relief association is directly associated. 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 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 69.772 or 69.773, 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 ~~by the governing body or bodies of the appropriate municipalities~~ as required under section 69.772, subdivision 6, or 69.773, subdivision 6. If the special fund of the relief association has a surplus over full funding under section 69.772, subdivision 3, or 69.773, 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 so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the subsequent calendar year's fire state aid to be received by the relief association if authorized under section 69.772, subdivision 6, or 69.773, 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 the day following final enactment.

Sec. 11. Minnesota Statutes 2009 Supplement, section 424A.05, subdivision 3, is amended to read:

Subd. 3. **Authorized disbursements from the special fund.** ~~(a)~~ Disbursements from the special fund may not 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 purchase of an annuity for the applicable person under section 424A.015, subdivision 3, for the transfer of service pension or benefit amounts to the applicable person's individual retirement account under section 424A.015, subdivision 4, or to the applicable person's account in the Minnesota deferred compensation plan under section 424A.015, subdivision 5;

~~(2)~~ (3) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid under law and specified in amount in the bylaws governing the relief association;

~~(3)~~ (4) 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 no survivors and if no designated beneficiary,~~ or for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized ~~by~~ and paid under law and specified in amount in the bylaws governing the relief association;

~~(4)~~ (5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;

~~(5)~~ (6) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering

casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

~~(6) (7)~~ for the payment of administrative expenses of the relief association as authorized under section 69.80.

~~(b) For purposes of this chapter, 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 chapter, for a defined contribution volunteer fire relief association, 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 designated beneficiary may be a trust created under chapter 501B.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2009 Supplement, section 424A.05, is amended by adding a subdivision to read:

Subd. 3a. **Corrections of erroneous special fund deposits.** Upon notification of funds deposited in error in the special fund and after presentation of evidence that the error occurred in good faith, the state auditor may require the relief association to provide a written legal opinion concluding that the transfer of funds from the special fund is consistent with federal and state law. Taking into consideration the evidence of good faith presented and the legal opinion, if any, provided, the state auditor may order the transfer from the special fund to the appropriate fund or account an amount equal to the funds deposited in error.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 13. **REPEALER.**

(a) Minnesota Statutes 2009 Supplement, section 424A.001, subdivision 6, is repealed.

(b) Laws 2009, chapter 169, article 10, section 32, is repealed.

EFFECTIVE DATE. Paragraph (a) of this section is effective the day following final enactment. Paragraph (b) of this section is effective retroactively from July 1, 2009.

APPENDIX
Repealed Minnesota Statutes: 10-5059

424A.001 DEFINITIONS.

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the bylaws governing a relief association to which this chapter applies, "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.

APPENDIX
Repealed Minnesota Session Laws: 10-5059

Laws 2009, chapter 169, article 10, section 32

Sec. 32. Minnesota Statutes 2008, section 424A.02, subdivision 9b, is amended to read:

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 must repay to the defined benefit relief association any previously received service pension.

EFFECTIVE DATE. This section is effective July 1, 2009.