

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4438

(SENATE AUTHORS: ROSEN)

DATE	D-PG	OFFICIAL STATUS
03/16/2020	5569	Introduction and first reading Referred to State Government Finance and Policy and Elections See SF3808, Art. 15

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighter relief associations; authorizing relief

1.3 associations to convert from a defined benefit plan to a defined contribution plan;

1.4 amending Minnesota Statutes 2018, section 424B.01, by adding subdivisions;

1.5 proposing coding for new law in Minnesota Statutes, chapter 424B.

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

1.7 Section 1. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision

1.8 to read:

1.9 Subd. 3a. **Conversion effective date.** "Conversion effective date" means the date the

1.10 assets of the defined benefit plan have been allocated to accounts under the defined

1.11 contribution plan.

1.12 Sec. 2. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to

1.13 read:

1.14 Subd. 3b. **Defined benefit plan.** "Defined benefit plan" means a retirement plan that

1.15 provides a retirement benefit that is a lump sum, the amount of which is determined by

1.16 multiplying the applicable lump-sum service pension amount under section 424A.02,

1.17 subdivision 3, paragraph (d), by years of service, or a monthly pension, the amount of which

1.18 is determined by multiplying the applicable monthly pension amount under section 424A.02,

1.19 subdivision 3, paragraph (c), by years of service. A defined benefit plan may provide both

1.20 a lump-sum benefit and a monthly pension.

2.1 Sec. 3. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 3c. **Defined benefit relief association.** "Defined benefit relief association" means
2.4 a relief association that has established and administers a retirement plan that is a defined
2.5 benefit plan.

2.6 Sec. 4. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.7 read:

2.8 Subd. 3d. **Defined contribution plan.** "Defined contribution plan" means a retirement
2.9 plan that provides a retirement benefit based on the member's individual account balance.

2.10 Sec. 5. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.11 read:

2.12 Subd. 3e. **Defined contribution relief association.** "Defined contribution relief
2.13 association" means a relief association that has established and administers a retirement
2.14 plan that is a defined contribution plan.

2.15 Sec. 6. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.16 read:

2.17 Subd. 3f. **Firefighting corporation.** "Firefighting corporation" means an independent
2.18 nonprofit firefighting corporation that is organized under chapter 317A and that operates
2.19 primarily for firefighting purposes.

2.20 Sec. 7. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.21 read:

2.22 Subd. 3g. **Member.** (a) "Member" means a person who:

2.23 (1) is a member of a fire department or independent nonprofit firefighting corporation;

2.24 (2) has been credited with at least one year of service toward a retirement benefit under
2.25 the retirement plan of a relief association that is affiliated with the fire department or
2.26 independent nonprofit firefighting corporation; and

2.27 (3) has not received a distribution of the person's benefit from the retirement plan or, if
2.28 the retirement plan provides a benefit that is a monthly pension, has not begun to receive
2.29 the monthly pension.

3.1 (b) A member may be an active firefighter, an inactive firefighter, or a former firefighter
3.2 who has a benefit under the retirement plan but has not become eligible to receive the benefit.

3.3 Sec. 8. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
3.4 read:

3.5 Subd. 4a. **Relief association.** (a) "Relief association" or "volunteer firefighter relief
3.6 association" means a nonprofit corporation incorporated under or governed by chapter 317A
3.7 that receives and manages public money to provide retirement benefits for individuals
3.8 providing the governmental services of firefighting and emergency first response, is subject
3.9 to chapter 424A, and is affiliated with:

3.10 (1) a fire department established by municipal ordinance;

3.11 (2) an independent nonprofit firefighting corporation incorporated under chapter 317A;

3.12 or

3.13 (3) a fire department operated as or by a joint powers entity.

3.14 (b) Relief association or volunteer firefighters relief association does not mean the
3.15 voluntary statewide volunteer firefighter retirement plan governed by chapter 353G.

3.16 Sec. 9. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
3.17 read:

3.18 Subd. 5a. **Retirement benefit.** "Retirement benefit" means the benefit to which a member
3.19 is entitled under a retirement plan.

3.20 Sec. 10. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision
3.21 to read:

3.22 Subd. 5b. **Retirement plan.** "Retirement plan" means the defined benefit plan or defined
3.23 contribution plan established and administered by a relief association.

3.24 Sec. 11. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision
3.25 to read:

3.26 Subd. 7. **Surplus.** "Surplus" means the amount by which the assets in a defined benefit
3.27 plan exceed accrued liabilities.

4.1 Sec. 12. [424B.13] CONVERSION OF RELIEF ASSOCIATION DEFINED BENEFIT
4.2 PLAN TO DEFINED CONTRIBUTION PLAN.

4.3 Subdivision 1. Authority to initiate conversion. (a) The board of trustees of a defined
4.4 benefit relief association may convert the defined benefit plan to a defined contribution plan
4.5 in accordance with this section.

4.6 (b) A conversion consists of:

4.7 (1) termination of the defined benefit plan;

4.8 (2) establishment of a defined contribution plan; and

4.9 (3) transfer and allocation of the assets of the defined benefit plan to accounts under the
4.10 defined contribution plan.

4.11 (c) The termination of the defined benefit plan does not dissolve the relief association,
4.12 which is an ongoing nonprofit corporation under chapter 317A, unless dissolved under
4.13 chapter 317A and section 424B.20.

4.14 Subd. 2. Board of trustees. To initiate and complete a conversion, the board of trustees
4.15 of a relief association must:

4.16 (1) approve resolutions that:

4.17 (i) state that the defined benefit plan is being converted to a defined contribution plan;

4.18 (ii) designate a conversion effective date;

4.19 (iii) fully, 100 percent, vest all members as of the conversion effective date in each
4.20 member's lump-sum benefit or monthly pension;

4.21 (iv) if the relief association has a surplus as of the end of the relief association's most
4.22 recent fiscal year before the conversion effective date, at the option of the board of trustees,
4.23 conditionally increase the lump-sum benefit or monthly pension amount under the defined
4.24 benefit plan, as provided under subdivision 4;

4.25 (v) determine the method for allocating a surplus;

4.26 (vi) adopt a defined contribution plan and approve a plan document that complies with
4.27 section 424A.016 and states the terms and conditions for eligibility, vesting, allocation of
4.28 contributions, distribution of retirement benefits, and any ancillary benefits; and

4.29 (vii) authorize any bylaws amendments needed to incorporate items (i) to (vi) into the
4.30 bylaws;

5.1 (2) obtain the consent of the municipality or firefighting corporation if required by
5.2 subdivision 3;

5.3 (3) determine the present value of each member's accrued benefit as of the conversion
5.4 effective date as required by subdivision 5;

5.5 (4) if there is a surplus, allocate the surplus under a method that complies with subdivision
5.6 6;

5.7 (5) if there is not a surplus, take the actions required under subdivision 7;

5.8 (6) provide the notices required under subdivisions 8 and 9; and

5.9 (7) implement the conversion, including the requirements under subdivision 10.

5.10 Subd. 3. **Consent of municipality or firefighting corporation.** The consent of the
5.11 municipality or firefighting corporation to a relief association's conversion of its defined
5.12 benefit plan to a defined contribution plan is required as provided under subdivision 7 only
5.13 if the relief association does not have a surplus as of the end of the relief association's most
5.14 recent fiscal year before the conversion effective date.

5.15 Subd. 4. **Benefit increase.** (a) If the relief association has a surplus as of the end of the
5.16 relief association's most recent fiscal year before the conversion effective date, the board
5.17 of trustees of the relief association may approve a resolution that increases the lump-sum
5.18 benefit or monthly pension amount under the defined benefit plan and amends the relief
5.19 association bylaws without the consent of the affiliated municipality or firefighting
5.20 corporation, notwithstanding section 424A.02, subdivision 10. The resulting lump-sum
5.21 benefit or monthly pension amount is not limited to the maximum lump-sum benefit or
5.22 monthly pension amounts under section 424A.02, subdivision 3.

5.23 (b) The benefit increase must not cause the liabilities of the retirement plan to exceed
5.24 the value of the assets, after taking into account full vesting as required under subdivision
5.25 2 and any administrative expenses arising from the conversion.

5.26 (c) The board of trustees shall specify whether the benefit increase will apply only to
5.27 members active as of the conversion effective date or whether the benefit increase will apply
5.28 to all members, including members who are not active as of the conversion effective date,
5.29 notwithstanding section 424A.015, subdivision 6.

5.30 (d) The board of trustees' resolution approving an increase in the benefit level must be
5.31 considered conditional on there being sufficient assets to fund the increase and must state
5.32 that if, as of the date benefits are transferred to the defined contribution plan, there are not
5.33 sufficient assets to cover all benefit liabilities at the new higher benefit level, the benefit

6.1 level will be reduced until assets equal or are greater than liabilities. The resolution must
6.2 state that the new lower benefit level will be considered approved by the board of trustees
6.3 without further action by the board.

6.4 Subd. 5. **Determination of value of pension benefits.** The board of trustees shall
6.5 determine the present value of each member's accrued benefit, taking into account the full
6.6 vesting requirement under subdivision 2 and any increase in the lump-sum benefit or monthly
6.7 pension amount approved under subdivision 4:

6.8 (1) using the method set forth in section 424A.092, subdivision 2, for determining a
6.9 plan's funded status by calculating the value of each firefighter's accrued benefit; or

6.10 (2) as determined by an actuary retained by the relief association, who meets the definition
6.11 of approved actuary under section 356.215, subdivision 1, paragraph (c).

6.12 Subd. 6. **Allocation of surplus.** (a) If, as of the conversion effective date, the defined
6.13 benefit plan has a surplus, the board of trustees shall allocate the surplus as follows:

6.14 (1) per capita method: each member's account will receive the same dollar amount;

6.15 (2) service-based method: each member's account will receive a share of the surplus
6.16 based on the ratio of the member's years of service to the total years of service for all
6.17 members; or

6.18 (3) member and municipality sharing method:

6.19 (i) first, the municipality will receive a share of the surplus based on the ratio of the
6.20 municipal contributions made to the defined benefit relief association over a specified period
6.21 of years to the total of fire state aid paid and municipal contributions made to the defined
6.22 benefit relief association over the same period; and

6.23 (ii) second, any remaining surplus will be allocated to accounts of members using the
6.24 per capita or service-based method.

6.25 (b) If the board of trustees elects the method under paragraph (a), clause (3), the board
6.26 of trustees may impose conditions on the use of the surplus as follows:

6.27 (1) all or a specified portion of the surplus must be contributed back to the defined
6.28 contribution relief association over a specified number of future years for allocation to the
6.29 accounts of members eligible for an allocation;

6.30 (2) all or a specified portion of the surplus must be used by the municipality for the
6.31 purposes described in section 424A.08, paragraph (a) or (b); or

7.1 (3) all or a specified portion of the surplus must be used by the municipality to provide
7.2 health insurance or other welfare benefits for the members.

7.3 (c) The board of trustees shall specify whether the surplus will be allocated only to
7.4 members who are active firefighters as of the conversion effective date or whether the
7.5 surplus will be allocated to all members, including members who are not active firefighters
7.6 as of the conversion effective date.

7.7 Subd. 7. **Conversion without surplus.** If the relief association does not have a surplus
7.8 as of the end of the relief association's most recent fiscal year before the conversion effective
7.9 date, the board of trustees shall:

7.10 (1) obtain the consent of the municipality or firefighting corporation to the conversion
7.11 and bylaws amendments under subdivision 2; and

7.12 (2) either:

7.13 (i) include with the resolutions of the board of trustees under subdivision 2 a resolution
7.14 amending the relief association bylaws to decrease the lump-sum or monthly pension benefit
7.15 level as necessary to reduce benefit liabilities until plan assets are sufficient to fund all
7.16 benefit liabilities, taking into account full vesting under subdivision 2 and the payment of
7.17 administrative expenses arising from the conversion; or

7.18 (ii) enter into an agreement with the municipality or firefighting corporation, as applicable,
7.19 that requires the municipality or firefighting corporation to make a contribution in an amount
7.20 sufficient to cover all benefit liabilities at the current benefit level, taking into account full
7.21 vesting under subdivision 2 and the payment of administrative expenses arising from the
7.22 conversion.

7.23 Subd. 8. **Notice to members.** The board of trustees of the relief association shall provide
7.24 notice to all members at least 90 days before the conversion effective date. The notice shall
7.25 include:

7.26 (1) an explanation that the plan is converting from a defined benefit plan to a defined
7.27 contribution plan and provide definitions for those terms, the reasons for the conversion,
7.28 the conversion effective date, and the procedure to be followed, including fully vesting all
7.29 members;

7.30 (2) a summary of the terms of the newly adopted defined contribution plan;

7.31 (3) information about any increase in the benefit level and whether the increase applies
7.32 to all members or only active firefighters;

8.1 (4) a section tailored to each member that provides an estimate of the present value of
8.2 the member's fully vested accrued benefit and the calculation that resulted in that value;

8.3 (5) an estimate of any anticipated surplus and an explanation of the disposition of the
8.4 surplus, including, as applicable, a description of the method allocating the surplus among
8.5 members' accounts and whether the municipality or firefighting corporation will receive
8.6 any of the surplus and any conditions on its use; and

8.7 (6) contact information for one or more members of the board of trustees who will answer
8.8 questions and provide a copy of the new defined contribution plan document or a summary,
8.9 if requested, or directions to a website for viewing and printing the plan document or
8.10 summary.

8.11 Subd. 9. **Notice to municipality and state auditor.** The relief association shall provide
8.12 notice to the municipality or firefighting corporation affiliated with the relief association
8.13 and the state auditor at the same time as the notice required under subdivision 8. The notice
8.14 must include the information required under subdivision 8, except that the individualized
8.15 information will be provided as a spreadsheet listing the name of each firefighter and the
8.16 corresponding accrued benefit amount.

8.17 Subd. 10. **Implementation.** (a) A record-keeping account shall be established for each
8.18 member under the defined contribution plan to which is recorded the value of the firefighter's
8.19 fully vested accrued benefit as determined as of the conversion effective date and any
8.20 allocation of surplus.

8.21 (b) In no event may the value of a member's account in the defined contribution plan be
8.22 less as of the day following the conversion effective date than the present value of the
8.23 member's accrued benefit as of the day before the conversion effective date.

8.24 **Sec. 13. EFFECTIVE DATE.**

8.25 Sections 1 to 12 are effective the day following final enactment.