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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2391

02/20/2012 Authored by Murphy, M. and Smith

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to retirement; volunteer firefighter relief associations; implementing the
1.3 recommendations of the 2011-2012 state auditor volunteer fire working group;
1.4 amending Minnesota Statutes 2010, sections 356.219, subdivision 8; 356A.01,
1.5 subdivision 19; 356A.06, subdivision 6; 424A.016, subdivision 6; 424A.02,
1.6 subdivisions 1, 7, 9.

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

1.8 Section 1. Minnesota Statutes 2010, section 356.219, subdivision 8, is amended to read:

1.9 Subd. 8. **Timing of reports.** (a) For salaried firefighter relief associations, police
1.10 relief associations, and volunteer firefighter relief associations, the information required
1.11 under this section must be submitted by the due date for reports required under section
1.12 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of
1.13 a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered
1.14 by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief
1.15 administrative officer of the covered pension plan shall certify that compliance on a form
1.16 prescribed by the state auditor. The state auditor shall transmit annually to the State Board
1.17 of Investment a list or lists of covered pension plans which submitted certifications in
1.18 order to facilitate reporting by the State Board of Investment under paragraph (c).

1.19 (b) For the ~~Minneapolis Teachers Retirement Fund Association~~, the St. Paul
1.20 Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association,
1.21 the ~~Minneapolis Employees Retirement Fund~~, the University of Minnesota faculty
1.22 supplemental retirement plan, and the applicable administrators for the University of
1.23 Minnesota faculty retirement plan and the individual retirement account plans under
1.24 chapters 354B and 354D, the information required under this section must be submitted to
1.25 the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

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

Sec. 2. Minnesota Statutes 2010, section 356A.01, subdivision 19, is amended to read:

Subd. 19. **Pension fund.** "Pension fund" means the assets amassed and held in a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses. For a retirement plan governed by section 69.77 or by chapter 424A, the term means the relief association special fund.

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

Sec. 3. Minnesota Statutes 2010, section 356A.06, subdivision 6, is amended to read:

Subd. 6. **Limited list of authorized investment securities.** (a) Except to the extent otherwise authorized by law, a covered pension plan may invest its assets only in investment securities authorized by this subdivision if the plan does not:

(1) have pension fund assets with a book value in excess of \$1,000,000;

(2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisers Act of 1940, or registered as an investment advisor in accordance with sections 80A.58, and 80A.60, for the investment of at least 60 percent of its pension fund assets, calculated on book value;

(3) use the services of the State Board of Investment for the investment of at least 60 percent of its pension fund assets, calculated on book value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the State Board of Investment for the investment of at least 75 percent of its pension fund assets, calculated on book value.

(b) Investment securities authorized for a pension plan covered by this subdivision are:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured by the National Credit Union Administration, or is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118A.03;

(2) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(3) governmental obligations, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by an act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that:

(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality;

(ii) for an obligation that is a revenue bond, has been completely self-supporting for the last five years; and

(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;

(4) corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had on average annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and

(5) shares in an open-end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4).

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

Sec. 4. Minnesota Statutes 2010, section 424A.016, subdivision 6, is amended to read:

Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership ~~before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.~~ The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association ~~or~~;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

~~(2)~~ (3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the accounting date on which the investment return is recognized by and credited to the special fund.

(d) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

(e) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

EFFECTIVE DATE. (a) This section is effective January 1, 2013.

(b) This section applies only to persons becoming deferred service pensioners after January 1, 2013.

Sec. 5. Minnesota Statutes 2010, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit 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 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. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that

the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

(c) No municipality or nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

~~(d) No relief association as defined in section 424A.001, subdivision 4, may pay a defined benefit 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 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.~~

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

Sec. 6. Minnesota Statutes 2010, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of either the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership ~~before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.~~ The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association ~~or~~;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

~~(2)~~ (3) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause ~~(2)~~ (3), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

(e) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

8.1 (2) for a relief association that has elected to pay interest or additional investment
8.2 performance under paragraph (c), clause (2), beginning on the date that the member
8.3 separates from active service and membership and ending on the date that the separate
8.4 investment vehicle is valued immediately before the date on which the deferred member
8.5 commences receipt of the deferred service pension.

8.6 (f) For a deferred service pension that is transferred to a separate account established
8.7 and maintained by the relief association or separate investment vehicle held by the relief
8.8 association, the deferred member bears the full investment risk subsequent to transfer and
8.9 in calculating the accrued liability of the volunteer firefighters relief association that pays
8.10 a lump-sum service pension, the accrued liability for deferred service pensions is equal
8.11 to the separate relief association account balance or the fair market value of the separate
8.12 investment vehicle held by the relief association.

8.13 ~~(f)~~ (g) The deferred service pension is governed by and must be calculated under
8.14 the general statute, special law, relief association articles of incorporation, and relief
8.15 association bylaw provisions applicable on the date on which the member separated from
8.16 active service with the fire department and active membership in the relief association.

8.17 **EFFECTIVE DATE.** (a) This section is effective January 1, 2013.

8.18 (b) This section applies only to persons becoming deferred service pensioners after
8.19 January 1, 2013.

8.20 Sec. 7. Minnesota Statutes 2010, section 424A.02, subdivision 9, is amended to read:

8.21 Subd. 9. **Limitation on ancillary benefits.** A defined benefit relief association,
8.22 including any volunteer firefighters relief association governed by section 69.77 or any
8.23 volunteer firefighters division of a relief association governed by chapter 424, may only
8.24 pay ancillary benefits which would constitute an authorized disbursement as specified in
8.25 section 424A.05 subject to the following requirements or limitations:

8.26 (1) with respect to a defined benefit relief association in which governing bylaws
8.27 provide solely for a lump-sum service pension to a retiring member, or provide a retiring
8.28 member the choice of either a lump-sum service pension or a monthly service pension
8.29 and the lump-sum service pension was chosen, no ancillary benefit may be paid to any
8.30 former member or paid to any person on behalf of any former member after the former
8.31 member (i) terminates active service with the fire department and active membership
8.32 in the relief association; and (ii) commences receipt of a service pension as authorized
8.33 under this section; and

8.34 (2) with respect to any defined benefit relief association, no ancillary benefit paid or
8.35 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 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 children; or

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

(ii) If there 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 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 children; or

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

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

10.3 (iii) For purposes of this clause, if the relief association bylaws authorize a monthly
10.4 survivor benefit payable to a designated beneficiary, the relief association bylaws may
10.5 limit the total survivor benefit amount payable.

10.6 (5) For purposes of this section, for a monthly benefit volunteer fire relief association
10.7 or for a combination lump-sum and monthly benefit volunteer fire relief association where
10.8 a monthly benefit service pension has been elected by or a monthly benefit is payable with
10.9 respect to a firefighter, a designated beneficiary must be a natural person. For purposes
10.10 of this section, for a lump-sum volunteer fire relief association or for a combination
10.11 lump-sum and monthly benefit volunteer fire relief association where a lump-sum service
10.12 pension has been elected by or a lump-sum benefit is payable with respect to a firefighter,
10.13 a trust created under chapter 501B may be a designated beneficiary. If a trust is payable to
10.14 the surviving children organized under chapter 501B as authorized by this section and
10.15 there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding
10.16 a requirement of this section to the contrary.

10.17 **EFFECTIVE DATE.** This section is effective January 1, 2013.