

353A.07 EFFECT ON ADMINISTRATION.

Subdivision 1. **Transfer of administration.** On the effective date of consolidation, the administration of the special fund and the benefit plan of the relief association is transferred to the executive director and the board of trustees of the Public Employees Retirement Association.

Subd. 2. **Transfer of records.** On the effective date of consolidation, the chief administrative officer of the relief association shall transfer all records and documents relating to the special fund of the relief association to the fund. To the extent possible, original copies of all records and documents shall be transferred. For any records and documents which apply to both the general fund and the special fund of the relief association, the chief administrative officer may transfer a photostatic copy of the applicable original record or document if the copy is accompanied by a certification by the chief administrative officer that the copy is a true and exact copy of the original. Any photostatic copy of any document so certified may be treated by the fund for all purposes as an original copy.

Subd. 3. **Transfer of assets.** (a) On the effective date of consolidation, the chief administrative officer of the relief association shall transfer the entire assets of the special fund of the relief association to the Public Employees Retirement Association. The transfer must include any investment securities of the consolidation account which are not determined to be ineligible or inappropriate by the executive director of the state board under section 353A.05, subdivision 2, at the market value of the investment security as of the effective date of the consolidation. The transfer must include any accounts receivable determined by the executive director of the state board as capable of being collected. The transfer must also include an amount, in cash, representing any remaining investment security or other asset of the consolidation account which was liquidated, after defraying any accounts payable.

(b) As of the effective date of consolidation, subject to the authority of the state board, the board of trustees of the Public Employee Retirement Association has legal title to and management responsibility for any transferred assets as trustees for any person having a beneficial interest arising out of benefit coverage provided by the relief association. The Public Employees Retirement Association is the successor in interest for all claims for and against the consolidation account or the municipality with respect to the consolidation account of the relief association, except a claim against the relief association or the municipality or any person connected with the relief association or the municipality in a fiduciary capacity, based on any act or acts by that person which were not done in good faith and which constituted a breach of the obligation of the person as a fiduciary. As a successor in interest, the Public Employees Retirement Association may assert any applicable defense in any judicial proceeding which the board of the relief association or the municipality would have otherwise been entitled to assert.

Subd. 4. **Termination of special fund.** (a) As of the effective date of consolidation and the transfer of administration, records, assets, and liabilities from the relief association to the separate consolidation fund, the special fund of the relief association shall cease to exist as a legal entity. If the relief association has a general fund as of the effective date of consolidation, the general fund may continue to exist as a legal entity at the discretion of the board of the relief association. If the relief association does not have a general fund as of the effective date of consolidation, the board of the relief association may establish a general fund, which may conduct business on behalf of the relief association as the board of the relief association may direct. Following consolidation, the general fund may retain the name of the relief association, shall be the only fund of the relief association, and shall continue to be governed by any applicable general or special law provision other than any provisions governing the benefits previously payable from the special fund of the relief association. Any relief association continuing in the form of the general fund shall function as a fraternal organization.

(b) The municipality shall maintain the service previously provided to assist the relief association through making the appropriate payroll deduction of relief association membership dues from relief association members.

Subd. 5. **Costs of consolidation.** The reasonable and necessary costs arising from the actions of the commission, the state board, and the fund preliminary to consolidation as provided in section 353A.05 shall be paid by the relief association from the special fund as those costs are incurred before the effective date of the consolidation and shall be considered to be authorized administrative expenses of the relief association for section 69.80.

Subd. 6. **Postconsolidation bylaw amendments.** Following the effective date of consolidation, if the relief association continues in the form of the general fund, the board of the relief association shall adopt the appropriate amendments to its bylaws and articles of incorporation to reflect its change in status and operation. The amendments shall be effective upon filing the applicable amendments with the executive director of the commission and with the state auditor and shall not require municipal ratification as provided in section 69.77, subdivision 3.

History: 1987 c 296 s 14; 1992 c 432 art 2 s 30; 1992 c 598 art 7 s 1; 2002 c 392 art 1 s 8