

## CHAPTER 353G

### VOLUNTEER FIREFIGHTERS; RETIREMENT

353G.01	DEFINITIONS.	353G.112	MONTHLY BENEFIT RETIREMENT DIVISION SERVICE PENSION LEVELS.
353G.02	PLAN AND FUND CREATION.		
353G.03	STATEWIDE VOLUNTEER FIREFIGHTER PLAN ADVISORY BOARD.	353G.115	DISABILITY BENEFIT COVERAGE; AUTHORITY FOR CASUALTY INSURANCE.
353G.04	INFORMATION FROM MUNICIPALITIES AND FIRE DEPARTMENTS.	353G.12	SURVIVOR BENEFIT.
353G.05	PLAN COVERAGE ELECTION.	353G.121	MONTHLY BENEFIT RETIREMENT DIVISION; POST-TRANSFER BENEFIT PLAN DOCUMENT MODIFICATIONS.
353G.06	DISESTABLISHMENT OF PRIOR VOLUNTEER FIREFIGHTER RELIEF ASSOCIATION SPECIAL FUND UPON RETIREMENT COVERAGE CHANGE.	353G.13	LUMP-SUM RETIREMENT DIVISION; PORTABILITY.
353G.07	CERTIFICATION OF GOOD TIME SERVICE CREDIT.	353G.14	PURCHASE OF ANNUITY CONTRACTS.
353G.08	RETIREMENT PLAN FUNDING; DISBURSEMENTS.	353G.16	EXEMPTION FROM PROCESS.
353G.09	RETIREMENT BENEFIT ELIGIBILITY.	353G.17	TRANSFER AUTHORIZED.
353G.10	DEFERRED SERVICE PENSION AMOUNT.	353G.18	TERMINATION OF PARTICIPATION AND DISTRIBUTION OF BENEFITS.
353G.11	LUMP-SUM RETIREMENT DIVISION SERVICE PENSION LEVELS.		

#### 353G.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the words or terms defined in this section have the meanings given to them unless the context of the word or term clearly indicates otherwise.

Subd. 2. **Advisory board.** "Advisory board" means the board established by section 353G.03.

Subd. 3. **Board.** "Board" means the board of trustees of the Public Employees Retirement Association operating under section 353.03.

Subd. 4. **Commissioner of management and budget.** "Commissioner of management and budget" means the state official appointed and qualified under section 16A.01.

Subd. 5. **Executive director; director.** "Executive director" or "director" means the person appointed under section 353.03, subdivision 3a.

Subd. 6. **Fund.** "Fund" means the statewide volunteer firefighter fund established under section 353G.02, subdivision 3.

Subd. 6a. **Governing body.** "Governing body" means the governing body of a municipality or independent nonprofit firefighting corporation or, in the case of a joint powers entity, the governing bodies of the municipalities associated with the joint powers entity.

Subd. 7. **Good time service credit.** "Good time service credit" means the length of service credit for an active firefighter that is reported by the applicable fire chief based on the minimum firefighter activity standards of the fire department. The credit may be reported on an annual or monthly basis.

Subd. 7a. **Lump-sum account.** "Lump-sum account" means that portion of the retirement fund that contains the assets applicable to the lump-sum retirement division.

Subd. 7b. **Lump-sum retirement division.** "Lump-sum retirement division" means the division of the plan governed by section 353G.11.

Subd. 8. **Member.** "Member" means a volunteer firefighter who provides active service to a municipal fire department or an independent nonprofit firefighting corporation where the applicable municipality or corporation has elected coverage by the retirement plan under section 353G.05, and which service is covered by the retirement plan.

Subd. 8a. **Monthly benefit account.** "Monthly benefit account" means that portion of the retirement fund that contains the assets applicable to the monthly benefit retirement division.

Subd. 8b. **Monthly benefit retirement division.** "Monthly benefit retirement division" means the division of the plan governed by section 353G.112.

Subd. 9. **Municipality.** "Municipality" means a governmental entity specified in section 477B.01, subdivision 10, a city or township that has entered into a contract with an independent nonprofit firefighting corporation, or a city or township that has entered into a contract with a joint powers entity established under section 471.59.

Subd. 9a. **Relief association.** "Relief association" means a volunteer firefighter relief association established under chapter 424A to which records, assets, and liabilities related to lump-sum or monthly benefits for active and former firefighters will be transferred from the retirement fund upon satisfaction of the requirements of section 353G.17.

Subd. 10. **Plan.** "Plan" means the retirement plan established by this chapter.

Subd. 10a. **Retirement benefit plan document.** "Retirement benefit plan document," for an account in the monthly benefit retirement division, means the articles of incorporation and bylaws of the prior former volunteer firefighter relief association in effect on the day before the date on which the retirement coverage transfer under section 353G.05 occurred or as provided in the most recent modification under section 353G.121.

Subd. 11. **Retirement fund.** "Retirement fund" means the statewide volunteer firefighter fund established under section 353G.02, subdivision 3.

Subd. 12. **Retirement plan.** "Retirement plan" means the retirement plan, either the lump-sum retirement division or the monthly benefit retirement division, established by this chapter.

Subd. 13. **Standards for actuarial work.** "Standards for actuarial work" means the standards adopted by the Legislative Commission on Pensions and Retirement under section 3.85, subdivision 10.

Subd. 14. **State Board of Investment.** "State Board of Investment" means the board created by article XI, section 8, of the Minnesota Constitution and governed by chapter 11A.

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of a municipal fire department or independent nonprofit firefighting corporation and who, in that capacity, engages in fire suppression activities, provides emergency response services, or delivers fire education or prevention services on an on-call basis.

**History:** 2009 c 101 art 2 s 109; 2009 c 169 art 9 s 10; 2015 c 68 art 8 s 2-10; 2018 c 211 art 16 s 4,5; 2019 c 50 art 1 s 112; 1Sp2019 c 6 art 22 s 4; 2020 c 108 art 7 s 1,9

## 353G.02 PLAN AND FUND CREATION.

Subdivision 1. **Retirement plan.** The statewide volunteer firefighter plan, consisting of a lump-sum retirement division and a monthly benefit retirement division, is created.

Subd. 2. **Administration.** The policy-making, management, and administrative functions related to the statewide volunteer firefighter plan and fund are vested in the board of trustees and the executive director of the Public Employees Retirement Association. Their duties, authority, and responsibilities are as provided in section 353.03. Fiduciary activities of the plan and fund must be undertaken in a manner consistent with chapter 356A.

Subd. 3. **Retirement fund.** (a) The statewide volunteer firefighter fund, consisting of a lump-sum account and a monthly benefit account, is created. The fund contains the assets attributable to the statewide volunteer firefighter plan.

(b) The State Board of Investment shall invest those portions of the retirement fund not required for immediate purposes in the statewide lump-sum volunteer firefighter plan in the statewide volunteer firefighter account of the Minnesota supplemental investment fund under section 11A.17.

(c) The commissioner of management and budget is the ex officio treasurer of the statewide volunteer firefighter fund. The commissioner of management and budget's general bond to the state covers all liability for actions taken as the treasurer of the retirement fund.

(d) The revenues of the retirement plan beyond investment returns are governed by section 353G.08 and must be deposited in the retirement fund. The disbursements of the retirement plan are governed by section 353G.08. The commissioner of management and budget shall transmit a detailed statement showing all credits to and disbursements from the retirement fund to the executive director monthly.

Subd. 4. **Audit; actuarial valuation.** (a) The legislative auditor shall periodically audit the statewide volunteer firefighter fund.

(b) An actuarial valuation of the lump-sum retirement division of the statewide volunteer firefighter plan may be performed periodically as determined to be appropriate or useful by the board. An actuarial valuation of the monthly benefit retirement division of the statewide volunteer firefighter plan must be performed as frequently as required by government sector generally accepted accounting standards. An actuarial valuation must be performed by the approved actuary retained under section 356.214 and must conform with section 356.215 and the standards for actuarial work. An actuarial valuation must contain sufficient detail for each participating employing entity to ascertain the actuarial condition of its account in the fund and the contribution requirement towards its account.

Subd. 5. **Legal advisor; attorney general.** (a) The legal advisor of the board and the executive director with respect to the statewide volunteer firefighter plan is the attorney general.

(b) The board may sue, petition, be sued, or be petitioned under this chapter with respect to the plan or the fund in the name of the board.

(c) The attorney general shall represent the board in all actions by the board or against the board with respect to the plan or the fund.

(d) Venue of all actions related to the plan or fund is in the court for the first judicial district unless the action is an appeal to the court of appeals under section 356.96.

Subd. 6. **Initial administrative expenses of the monthly benefit retirement division; allocation of reimbursement.** The administration expenses incurred by the Public Employees Retirement Association in the establishment of the monthly benefit retirement division of the statewide volunteer firefighter plan, including any computer programming expenses and any actuarial consultant expenses, are payable from the

assets of the initial monthly benefit volunteer firefighter relief association that elects to transfer its administration to the statewide volunteer firefighter plan, following the transfer of assets.

**History:** 2009 c 101 art 2 s 109; 2009 c 169 art 9 s 11; 2015 c 68 art 8 s 11; 2018 c 211 art 16 s 6; 2020 c 108 art 7 s 9

### 353G.03 STATEWIDE VOLUNTEER FIREFIGHTER PLAN ADVISORY BOARD.

Subdivision 1. **Establishment.** A Statewide Volunteer Firefighter Plan Advisory Board is created.

Subd. 2. **Function; purpose.** The advisory board shall meet periodically to provide advice to the board of trustees of the Public Employees Retirement Association about the retirement coverage needs of volunteer firefighters who are members of the retirement plan and about the legislative and administrative changes that would assist the retirement plan in accommodating volunteer firefighters who are not members of the retirement plan.

Subd. 3. **Composition.** (a) The advisory board consists of ten members.

(b) The advisory board members are:

- (1) one representative of Minnesota townships, appointed by the Minnesota Association of Townships;
- (2) two representatives of Minnesota cities, appointed by the League of Minnesota Cities;
- (3) one representative of Minnesota fire chiefs, who is a fire chief, appointed by the Minnesota State Fire Chiefs Association;
- (4) two representatives of Minnesota volunteer firefighters, all who are active volunteer firefighters, one of whom is covered by the lump-sum retirement division and one of whom is covered by the monthly benefit retirement division, appointed by the Minnesota State Fire Chiefs Association;
- (5) three representatives of Minnesota volunteer firefighters who are covered by the lump-sum retirement division, appointed by the Minnesota State Fire Departments Association; and
- (6) one representative of the Office of the State Auditor, designated by the state auditor.

Subd. 4. **Term.** (a) The term for the Office of the State Auditor representative is determined by the state auditor.

(b) Terms on the advisory board other than the Office of the State Auditor representative are three years.

Subd. 5. **Compensation of advisory board.** The compensation of members of the advisory board, other than the Office of the State Auditor representative, is governed by section 15.0575, subdivision 3.

**History:** 2009 c 169 art 9 s 12; 2015 c 68 art 8 s 12; 2018 c 211 art 16 s 7; 2020 c 108 art 7 s 9

### 353G.04 INFORMATION FROM MUNICIPALITIES AND FIRE DEPARTMENTS.

The chief executive officers of municipalities and fire departments with volunteer firefighters covered by the statewide volunteer firefighter plan shall provide all relevant information and records requested by the board, the executive director, and the State Board of Investment as required to perform their duties.

**History:** 2009 c 169 art 9 s 13; 2015 c 68 art 8 s 13; 2020 c 108 art 7 s 9

**353G.05 PLAN COVERAGE ELECTION.**

Subdivision 1. **Coverage.** (a) A relief association or a municipality or independent nonprofit firefighting corporation affiliated with a relief association may elect to have its volunteer firefighters covered by the lump-sum retirement division or the monthly benefit retirement division of the retirement plan.

(b) A municipality or independent nonprofit firefighting corporation that is not affiliated with a relief association may elect to have its volunteer firefighters covered by the lump-sum retirement division of the retirement plan.

Subd. 2. **Election of coverage; lump sum.** (a) The process for electing coverage of volunteer firefighters by the lump-sum retirement division is initiated by a request to the executive director for a cost analysis of the prospective retirement coverage under the lump-sum retirement division.

(b) If the volunteer firefighters are currently covered by a lump-sum volunteer firefighter relief association or a defined contribution volunteer firefighter relief association governed by chapter 424A, the cost analysis of the prospective retirement coverage must be requested jointly by the secretary of the volunteer firefighter relief association, following approval of the request by the board of the volunteer firefighter relief association, and the chief administrative officer of the entity associated with the relief association, following approval of the request by the governing body of the entity associated with the relief association. If the relief association is associated with more than one entity, the chief administrative officer of each associated entity must execute the request. If the volunteer firefighters are not currently covered by a volunteer firefighter relief association, the cost analysis of the prospective retirement coverage must be requested by the chief administrative officer of the entity operating the fire department. The request must be made in writing and must be made on a form prescribed by the executive director.

(c) The cost analysis of the prospective retirement coverage by the lump-sum retirement division of the statewide retirement plan must be based on the service pension amount under section 353G.11 closest to the service pension amount provided by the volunteer firefighter relief association if the relief association is a lump-sum defined benefit plan, or the amount equal to 95 percent of the most current average account balance per relief association member if the relief association is a defined contribution plan, or to the lowest service pension amount under section 353G.11 if there is no volunteer firefighter relief association, rounded up, and any other service pension amount designated by the requester or requesters. The cost analysis must be prepared using a mathematical procedure certified as accurate by an approved actuary retained by the Public Employees Retirement Association.

(d) If a cost analysis is requested and a volunteer firefighters relief association exists that has filed the information required under section 424A.014 in a timely fashion, upon request by the executive director, the state auditor shall provide the most recent data available on the financial condition of the volunteer firefighter relief association, the most recent firefighter demographic data available, and a copy of the current relief association bylaws. If a cost analysis is requested, but no volunteer firefighter relief association exists, the chief administrative officer of the entity operating the fire department shall provide the demographic information on the volunteer firefighters serving as members of the fire department requested by the executive director.

Subd. 3. **Election of coverage; monthly benefit.** (a) The process for electing coverage of volunteer firefighters by the monthly retirement division is initiated by a request to the executive director for an actuarial cost analysis of the prospective retirement coverage under the monthly benefit retirement division. This request must be made by the secretary of the volunteer firefighter relief association and the chief administrative officer of the entity associated with the relief association, both of which must first obtain

approval of the request from their respective municipal governing body or independent nonprofit firefighting corporation. The request must be made in writing and must be made on a form prescribed by the executive director.

(b) Coverage by the monthly benefit retirement division may only be elected if the volunteer firefighters are covered by a monthly benefit volunteer firefighter relief association governed by chapter 424A.

(c) The cost analysis under paragraph (a) must be prepared by the approved actuary retained by the Public Employees Retirement Association. The cost analysis must be based on:

(1) the service pension and other retirement benefit types and amounts in effect for the volunteer firefighter relief association as of the date of the request and any other amount or amounts designated by the requesters, as disclosed in a special actuarial valuation prepared under sections 356.215 and 356.216; and

(2) the standards for actuarial work, and the actuarial assumptions utilized in the most recent prior actuarial valuation, except that the applicable investment return actuarial assumption is six percent.

(d) The secretary of the volunteer firefighter relief association making the request must supply the demographic and financial data necessary for the cost analysis to be prepared.

**Subd. 4. Invested assets review.** If a cost analysis is requested under subdivision 2 or 3, the executive director of the State Board of Investment shall review the investment portfolio of the relief association, if applicable, for compliance with the applicable provisions of chapter 11A and for appropriateness for retention under the established investment objectives and investment policies of the State Board of Investment. If the prospective retirement coverage change is approved under subdivision 5, the State Board of Investment may require that the relief association liquidate any investment security or other asset which the executive director of the State Board of Investment has determined to be an ineligible or inappropriate investment for retention by the State Board of Investment. The security or asset liquidation must occur before the effective date of the transfer of retirement plan coverage. If requested to do so by the chief administrative officer of the relief association, the executive director of the State Board of Investment shall provide advice about the best means to conduct the liquidation.

**Subd. 5. Finalization; coverage transfer.** (a) The executive director shall deliver the cost analysis requested under subdivision 2 or 3 to the board of trustees of the relief association, if one exists, and the governing body.

(b) The transfer of coverage to the retirement plan is considered approved if, within 120 days of receipt of the cost analysis, the transfer is approved by both (1) the board of trustees of the relief association, if one exists, and (2) the governing body. If either the governing body or the board of trustees of the relief association does not take action to approve the transfer within 120 days of receipt of the cost analysis, the transfer is not approved.

(c) If the transfer is approved, coverage by the retirement plan is effective on the January 1 next following the date of approval by the last governing body or, if later, the date of approval by the board of trustees of the relief association.

**Subd. 6. Joint powers entities.** If transfer of coverage to the retirement plan is being requested for volunteer firefighters that provide services to a fire department operated as or by a joint powers entity, whenever an election or approval by or delivery to the governing body of a municipality is required under this section, all municipalities that executed the joint powers agreement must execute the election or approval

or receive delivery, unless the joint powers agreement specifies another process be followed in order for the action of a joint powers entity to be effective.

**History:** 2009 c 169 art 9 s 14; 2010 c 359 art 6 s 2; 2013 c 111 art 6 s 3; 2015 c 68 art 8 s 14; 1Sp2019 c 6 art 22 s 5; 1Sp2019 c 8 art 8 s 23; 2020 c 108 art 7 s 2-4

### **353G.06 DISESTABLISHMENT OF PRIOR VOLUNTEER FIREFIGHTER RELIEF ASSOCIATION SPECIAL FUND UPON RETIREMENT COVERAGE CHANGE.**

Subdivision 1. **Special fund disestablishment.** On the December 31 immediately prior to the effective date of the coverage change, the special fund of the applicable volunteer firefighter relief association, if one exists, ceases to exist as a pension fund of the association and legal title to the assets of the special fund transfers to the State Board of Investment, with the undivided beneficial title to the assets of the special fund remaining in the applicable volunteer firefighters as a group.

Subd. 2. **Other relief association changes.** In addition to the transfer and disestablishment of the special fund under subdivision 1, notwithstanding any provisions of chapter 424A or 424B to the contrary, upon the effective date of the change in volunteer firefighter retirement coverage, if the relief association membership elects to retain the relief association as a fraternal organization after the benefit coverage election, the following changes must be implemented with respect to the applicable volunteer firefighter relief association:

(1) the relief association board of trustees membership is reduced to five, comprised of the fire chief of the fire department and four trustees elected by and from the relief association membership;

(2) the relief association may only maintain a general fund, which continues to be governed by section 424A.06;

(3) the relief association is not authorized to receive the proceeds of any state aid or to receive any municipal funds; and

(4) the relief association may not pay any service pension or benefit that was not authorized as a general fund disbursement under the articles of incorporation or bylaws of the relief association in effect immediately prior to the plan coverage election process.

Subd. 3. **Successor in interest.** Upon the disestablishment of the special fund of the volunteer firefighter relief association under this section, the statewide volunteer firefighter plan is the successor in interest of the special fund of the volunteer firefighter relief association for all claims against the special fund other than a claim against the special fund, the volunteer firefighter relief association, the municipality, the fire department, or any person connected with the volunteer firefighter relief association in a fiduciary capacity under chapter 356A or common law that was based on any act or acts which were not performed in good faith and which constituted a breach of a fiduciary obligation. As the successor in interest of the special fund of the volunteer firefighter relief association, the statewide volunteer firefighter plan may assert any applicable defense in any judicial proceeding which the board of trustees of the volunteer firefighter relief association or the municipality would have been entitled to assert.

**History:** 2009 c 169 art 9 s 15; 2010 c 359 art 6 s 3; 2015 c 68 art 8 s 15; 2020 c 108 art 7 s 9

### **353G.07 CERTIFICATION OF GOOD TIME SERVICE CREDIT.**

(a) Annually, by March 31, the fire chief of the fire department with firefighters who are active members of either the lump-sum retirement division or the monthly benefit retirement division shall certify to the

executive director the good time service credit for the previous calendar year of each firefighter rendering active service with the fire department.

(b) The fire chief shall provide to each firefighter rendering active service with the fire department notification of the amount of good time service credit rendered by the firefighter for the calendar year. The good time service credit notification must be provided to the firefighter 60 days before its certification to the executive director of the Public Employees Retirement Association, along with an indication of the process for the firefighter to challenge the fire chief's determination of good time service credit. If the good time service credit amount is challenged in a timely fashion, the fire chief shall hold a hearing on the challenge, accept and consider any additional pertinent information, and make a final determination of good time service credit. The final determination of good time service credit by the fire chief is not reviewable by the executive director of the Public Employees Retirement Association or by the board of trustees of the Public Employees Retirement Association.

(c) The good time service credit certification is an official public document. If a false good time service credit certification is filed or if false information regarding good time service credits is provided, section 353.19 applies.

(d) The good time service credit certification must be expressed as a percentage of a full year of service during which an active firefighter rendered at least the minimum level and quantity of fire suppression, emergency response, fire prevention, or fire education duties required by the fire department under the rules and regulations applicable to the fire department. No more than one year of good time service credit may be certified for a calendar year.

(e) If a firefighter covered by the retirement plan leaves active firefighting service to render active military service that is required to be governed by the federal Uniformed Services Employment and Reemployment Rights Act, as amended, the person must be certified as providing a full year of good time service credit in each year of the military service, up to the applicable limit of the federal Uniformed Services Employment and Reemployment Rights Act. If the firefighter does not return from the military service in compliance with the federal Uniformed Services Employment and Reemployment Rights Act, the good time service credits applicable to that military service credit period are forfeited and cancel at the end of the calendar year in which the federal law time limit occurs.

**History:** 2009 c 169 art 9 s 16; 2015 c 68 art 8 s 16

### **353G.08 RETIREMENT PLAN FUNDING; DISBURSEMENTS.**

Subdivision 1. **Annual funding requirements; lump-sum retirement division.** (a) Annually, the executive director shall determine the funding requirements of each account in the lump-sum retirement division of the statewide volunteer firefighter plan on or before August 1. The funding requirements computed under this subdivision must be determined using a mathematical procedure developed and certified as accurate by the approved actuary retained by the Public Employees Retirement Association and must be based on present value factors using a six percent interest rate, without any decrement assumptions. The funding requirements must be certified to the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan.

(b) The overall funding balance of each lump-sum account for the current calendar year must be determined in the following manner:



(1) The total accrued liability for all active and deferred members of the account as of December 31 of the current year must be calculated based on the good time service credit of active and deferred members as of that date.

(2) The total present assets of the account projected to December 31 of the current year, including receipts by and disbursements from the account anticipated to occur on or before December 31, must be calculated. To the extent possible, the market value of assets must be utilized in making this calculation.

(3) The amount of the total present assets calculated under clause (2) must be subtracted from the amount of the total accrued liability calculated under clause (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the account is considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the account is considered to have a deficit from full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund is considered to be fully funded.

(c) The financial requirements of each lump-sum account for the following calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the calendar year next following the current calendar year must be calculated based on the good time service used in the calculation under paragraph (b), clause (1), increased by one year.

(2) The increase in the total accrued liability of the account for the following calendar year over the total accrued liability of the account for the current year must be calculated.

(3) The amount of administrative expenses of the account must be calculated by multiplying the per-person dollar amount of the administrative expenses for the most recent prior calendar year by the number of active and deferred firefighters reported to PERA on the most recent good time service credit certification form for each account.

(4) If the account is fully funded, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3).

(5) If the account has a deficit from full funding, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3) plus an amount equal to one-tenth of the amount of the deficit from full funding of the account.

(6) If the account has a surplus over full funding, the financial requirement of the account for the following calendar year is the financial requirement of the account calculated as though the account was fully funded under clause (4) and, if the account has also had a surplus over full funding during the prior two years, additionally reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the account.

(d) The required contribution of the entity or entities associated with the fire department whose active firefighters are covered by the lump-sum retirement division is the annual financial requirements of the lump-sum account of the retirement plan under paragraph (c) reduced by the amount of any fire state aid payable under chapter 477B or police and firefighter retirement supplemental state aid payable under section 423A.022 that is reasonably anticipated to be received by the retirement plan attributable to the entity or entities during the following calendar year, and an amount of interest on the assets projected to be received during the following calendar year calculated at the rate of six percent per annum. The required contribution must be allocated between the entities if more than one entity is involved. A reasonable amount of anticipated

fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(e) The required contribution calculated in paragraph (d) must be paid to the retirement plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the retirement plan by December 31, it is payable with interest at an annual compound rate of six percent from the date due until the date payment is received by the retirement plan. If the entity does not pay the full amount of the required contribution, the executive director shall collect the unpaid amount under section 353.28, subdivision 6.

Subd. 1a. **Annual funding requirements; monthly benefit retirement division.** (a) Annually, the executive director shall determine the funding requirements of each monthly benefit account in the statewide volunteer firefighter plan on or before August 1.

(b) The executive director must determine the funding requirements of a monthly benefit account under this subdivision from:

(1) the most recent actuarial valuation normal cost, administrative expense, including the cost of a regular actuarial valuation, and amortization results for the account determined by the approved actuary retained by the retirement association under sections 356.215 and 356.216; and

(2) the standards for actuarial work, utilizing a six percent investment return actuarial assumption and other actuarial assumptions approved under section 356.215, subdivision 18:

(i) with that portion of any unfunded actuarial accrued liability attributable to a benefit increase to be amortized over a period of 20 years from the date of the benefit change;

(ii) with that portion of any unfunded actuarial accrued liability attributable to an assumption change or an actuarial method change to be amortized over a period of 20 years from the date of the assumption or method change;

(iii) with that portion of any unfunded actuarial accrued liability attributable to an investment loss to be amortized over a period of ten years from the date of investment loss; and

(iv) with the balance of any net unfunded actuarial accrued liability to be amortized over a period of five years from the date of the actuarial valuation.

(c) The required contributions of the entity or entities associated with the fire department whose active firefighters are covered by the monthly benefit retirement division are the annual financial requirements of the monthly benefit account of the retirement plan under paragraph (b) reduced by the amount of any fire state aid payable under chapter 477B, or any police and firefighter retirement supplemental state aid payable under section 423A.022, that is reasonably anticipated to be received by the retirement plan attributable to the entity or entities during the following calendar year. The required contribution must be allocated between the entities if more than one entity is involved. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(d) The required contribution calculated in paragraph (c) must be paid to the retirement plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the retirement plan by December 31, it is payable with interest at an annual compound rate of six percent from the date due until the date payment is received by the retirement plan. If the entity does not pay the full amount of the required contribution, the executive director shall collect the unpaid amount under section 353.28, subdivision 6.

Subd. 2. **Cash flow funding requirement.** If the executive director determines that a lump-sum retirement or a monthly benefit retirement account in the statewide volunteer firefighter plan has insufficient assets to meet the service pensions expected to be payable from the account over the succeeding two years, the executive director shall certify the amount of the potential service pension shortfall to the municipality or municipalities and the municipality or municipalities shall make an additional employer contribution to the account within ten days of the certification. If more than one municipality is associated with the account, unless the municipalities agree to and implement a different allocation, the municipalities shall allocate the additional employer contribution one-half in proportion to the population of each municipality and one-half in proportion to the estimated market value of the property of each municipality.

Subd. 2a. **Additional municipal contributions authorized.** (a) At the discretion of the municipality or the independent nonprofit firefighting corporation associated with a fire department covered by a statewide volunteer firefighter plan account, the municipality or the corporation may make additional contributions to the applicable account.

(b) The executive director of the Public Employees Retirement Association may specify requirements as to the form, timing, and accompanying information for contributions made under this subdivision.

(c) Any contributions made under this subdivision must be included as total present assets of the account for the calculation of any subsequent annual funding requirements for the account under subdivision 1 or 1a or for the calculation of any cash flow funding requirement under subdivision 2.

Subd. 3. **Authorized account disbursements.** The assets of a lump-sum retirement account or of a monthly benefit retirement account of the retirement fund may only be disbursed for:

- (1) the administrative expenses of the retirement plan;
- (2) the investment expenses of the retirement fund;
- (3) the service pensions payable under section 353G.10, 353G.11, 353G.14, or 353G.18;
- (4) the survivor benefits payable under section 353G.12;
- (5) the disability benefit coverage insurance premiums under section 353G.115; and
- (6) a transfer of assets under section 353G.17.

**History:** 2009 c 169 art 9 s 17; 2010 c 359 art 6 s 4; 2012 c 286 art 12 s 8; 2013 c 143 art 14 s 43; 2015 c 68 art 8 s 17; art 12 s 34; 2018 c 211 art 16 s 8; 1Sp2019 c 6 art 22 s 6,7; 1Sp2019 c 8 art 8 s 23; 2020 c 83 art 1 s 83; 2020 c 108 art 7 s 9

### **353G.09 RETIREMENT BENEFIT ELIGIBILITY.**

Subdivision 1. **Entitlement.** Except as provided in subdivision 3, an active member of the retirement plan is entitled to a service pension from the retirement plan if the person:

- (1) has separated from active service with the fire department for at least 30 days;
- (2) has attained the age of at least 50 years;
- (3) has completed at least five years of good time service credit as a member of the retirement plan if the person is a member of the lump-sum retirement division or has completed at least the minimum number of years of good time service credit as a member of the retirement plan specified in the retirement benefit

plan document attributable to the applicable fire department if the person is a member of the monthly benefit retirement division; and

(4) applies in a manner prescribed by the executive director for the service pension.

Subd. 2. **Vesting schedule; nonforfeitable portion of service pension.** (a) If an active member of the lump-sum retirement division has completed less than 20 years of good time service credit as a member of the lump-sum retirement division of the plan, the person's entitlement to a service pension is equal to the nonforfeitable percentage of the applicable service pension amount, as follows:

Completed years of good time service credit	Nonforfeitable percentage of the service pension
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent

(b) If an active member of the monthly benefit retirement division has completed less than 20 years of good time service credit as a member of the monthly benefit retirement division of the plan, the person's entitlement to a service pension must be governed by the retirement benefit plan document attributable to the applicable fire department.

Subd. 3. **Alternative lump-sum pension eligibility and computation.** (a) An active member of the lump-sum retirement division of the retirement plan is entitled to an alternative lump-sum service pension from the retirement plan if the person:

(1) has separated from active service with the fire department for at least 30 days;

(2) has attained the age of at least 50 years or the age for receipt of a service pension under the benefit plan of the applicable former volunteer firefighter relief association as of the date immediately before the election of the retirement coverage change, whichever is later;

(3) has completed at least five years of active service with the fire department and at least five years in total as a member of the applicable former volunteer firefighter relief association or of the lump-sum retirement division of the retirement plan, but has not rendered at least five years of good time service credit as a member of the lump-sum retirement division of the plan; and

(4) applies in a manner prescribed by the executive director for the service pension.

(b) If retirement coverage before statewide retirement plan coverage was provided to an active member by a defined benefit relief association, as defined in section 424A.001, subdivision 1b, the alternative lump-sum service pension is:

(1) the service pension level specified in the bylaws of the applicable former volunteer firefighter relief association as of the date immediately before the election of the retirement coverage change; multiplied by

(2) either full years of service or years and months of service, as specified in the bylaws, as a member of that volunteer firefighter relief association and as a member of the retirement plan; multiplied by

(3) the nonforfeitable percentage of the service pension to which the member is entitled under subdivision 2.

(c) If retirement coverage before statewide retirement plan coverage was provided to an active member by a defined contribution relief association, as defined in section 424A.001, subdivision 1c, the alternative lump-sum service pension is:

(1) the person's account balance as of the date immediately before the election of the retirement coverage change; multiplied by

(2) the nonforfeitable percentage of the account balance to which the person is entitled under subdivision 2; plus

(3) six percent annual compound interest from the date immediately before the election of the retirement coverage change until the date immediately before the date of retirement.

**Subd. 4. Deferred service pensions from former volunteer firefighter relief association.** A person who (1) had the status of deferred member with a former volunteer firefighter relief association as of the date immediately before the election of the retirement coverage change, and (2) is eligible for a service pension under the former relief association's bylaws is entitled to receive a service pension from the retirement plan. Eligibility for and calculation of the service pension are determined under the former relief association's bylaws as of the date the person terminated firefighting services and under chapter 424A.

**History:** 2009 c 169 art 9 s 18; 2010 c 359 art 6 s 5; 2015 c 68 art 7 s 1; art 8 s 18; 2020 c 108 art 7 s 5,6

### **353G.10 DEFERRED SERVICE PENSION AMOUNT.**

A person who was an active member of a fire department covered by either the lump-sum retirement division or the monthly benefit retirement division of the retirement plan who has separated from active firefighting service for at least 30 days and who has completed at least five years of good time service credit, but has not attained the age of 50 years, is entitled to a deferred service pension on or after attaining the age

of 50 years and applying in a manner specified by the executive director for the service pension. The service pension payable is the nonforfeitable percentage of the service pension under section 353G.09, subdivision 2, and is payable without any interest on or increase in the service pension over the period of deferral.

**History:** 2009 c 169 art 9 s 19; 2015 c 68 art 8 s 19

### **353G.11 LUMP-SUM RETIREMENT DIVISION SERVICE PENSION LEVELS.**

Subdivision 1. **Service pension levels; lump-sum retirement division.** Except as provided in subdivision 1a, the lump-sum retirement division of the retirement plan provides the following levels of service pension amounts per full year of good time service credit to be selected at the election of coverage:

- (1) a minimum service pension level of \$500 per year;
- (2) a maximum service pension level equal to the largest amount permitted under section 424A.02, subdivision 3, paragraph (d), as a maximum lump-sum service pension amount payable for each year of service; and
- (3) service pension levels between the minimum level and the maximum level in \$100 increments.

Subd. 1a. **Continuation of prior lump-sum service pension levels.** (a) If a municipality or independent nonprofit firefighting corporation elected to be covered by the lump-sum retirement division of the retirement plan before January 1, 2010, and selected the \$750 per year of good time service credit service pension amount effective for January 1, 2010, that level continues for the volunteer firefighters of that municipality or independent nonprofit firefighting corporation until a different service pension amount is selected under subdivision 2 after January 1, 2010.

(b) If a municipality or independent nonprofit firefighting corporation elected to be covered by the retirement plan before January 1, 2015, and selected a service pension level under subdivision 1, other than a good time service credit service pension amount under subdivision 1, that level continues for the volunteer firefighters of the municipality or independent nonprofit firefighting corporation until a different service pension amount is selected under subdivision 2 after January 1, 2014.

Subd. 2. **Lump-sum retirement division level selection.** A cost estimate from the executive director of an increase in the service pension level applicable to the active firefighters of the fire department may be requested by: (1) the fire chief of a department that has active membership covered by the lump-sum retirement division; or (2) the governing body operating a fire department that has active membership covered by the lump-sum retirement division. Within 120 days of the receipt of the cost estimate prepared by the executive director using a procedure certified as accurate by the approved actuary retained by the Public Employees Retirement Association, the governing body may approve the service pension level change, effective for January 1 of the following calendar year unless the governing body specifies in the approval document an effective date that is January 1 of the second year following the approval date. If the approval occurs after April 30, the required municipal contribution for the following calendar year must be recalculated and the results reported to the governing body. If not approved within 120 days of the receipt of the cost estimate, the service pension level change is considered to have been disapproved.

Subd. 3. **Supplemental benefit.** The lump-sum retirement account of the retirement plan also shall pay a supplemental benefit as provided for in section 424A.10.

Subd. 4. **Ancillary benefits.** Except as provided under section 353G.115 or 353G.12, no disability, death, funeral, or other ancillary benefit beyond a service pension or a survivor benefit is payable from the lump-sum retirement account of the retirement plan.

**History:** 2009 c 169 art 9 s 20; 2010 c 359 art 6 s 6,7; 2015 c 68 art 7 s 2-5; art 8 s 20; 2018 c 211 art 16 s 9; 2020 c 108 art 7 s 7

### **353G.112 MONTHLY BENEFIT RETIREMENT DIVISION SERVICE PENSION LEVELS.**

The service pension amount for the firefighters of a fire department covered by the monthly benefit retirement division of the retirement plan is the amount specified in the retirement benefit plan document applicable to the fire department.

**History:** 2015 c 68 art 8 s 21

### **353G.115 DISABILITY BENEFIT COVERAGE; AUTHORITY FOR CASUALTY INSURANCE.**

(a) Except as provided in paragraph (b) or (c), no disability benefit is payable from the statewide retirement plan.

(b) If the board approves the arrangement, disability coverage for the lump-sum retirement division of the statewide retirement plan members may be provided through a group disability insurance policy obtained from an insurance company licensed to do business in this state. The lump-sum retirement account of the statewide volunteer firefighter plan is authorized to pay the premium for the disability insurance authorized by this paragraph. The proportional amount of the total annual disability insurance premium must be added to the required contribution amount determined under section 353G.08.

(c) The disability benefit coverage for the monthly benefit retirement division is the disability service pension amount specified in the retirement benefit plan document applicable to the fire department, applicable former volunteer firefighter relief association in effect as of the last day before the date on which retirement coverage transferred to the statewide volunteer firefighter plan, subject to all conditions and limitations in the disability service pension specified therein.

**History:** 2010 c 359 art 6 s 8; 2015 c 68 art 8 s 22; 2020 c 108 art 7 s 9

### **353G.12 SURVIVOR BENEFIT.**

Subdivision 1. **Entitlement.** (a) A survivor of a deceased active member of the retirement plan or a deceased deferred member of the retirement plan, upon application as prescribed by the executive director, is entitled to receive a survivor benefit.

(b) A survivor is the spouse of the member, or if none, the minor child or children of the member, or if none, the estate of the member.

Subd. 2. **Lump-sum retirement plan; survivor benefit amount.** The amount of the survivor benefit for the lump-sum retirement division is the amount of the lump-sum service pension that would have been payable to the member of the lump-sum retirement division on the date of death if the member had been age 50 or older on that date.

Subd. 3. **Monthly benefit retirement plan; survivor benefit amount.** The amount of the survivor benefit for the monthly benefit retirement division is the survivor service pension amount specified in the

retirement benefit plan document applicable to the fire department, subject to all conditions and limitations for the benefit specified therein.

**History:** 2009 c 169 art 9 s 21; 2015 c 68 art 8 s 23,24

### **353G.121 MONTHLY BENEFIT RETIREMENT DIVISION; POST-TRANSFER BENEFIT PLAN DOCUMENT MODIFICATIONS.**

(a) The fire chief of a fire department that has an active membership who are covered by the monthly benefit retirement division of the plan may initiate the process of modifying the retirement benefit plan document under this section.

(b) The modification procedure is initiated when the applicable fire chief files with the executive director of the Public Employees Retirement Association a written summary of the desired benefit plan document modification, the proposed benefit plan document modification language, a written request for the preparation of an actuarial cost estimate for the proposed benefit plan document modification, and payment of the estimated cost of the actuarial cost estimate.

(c) Upon receipt of the modification request and related documents, the executive director shall review the language of the proposed benefit plan document modification and, if a clarification is needed in the submitted language, shall inform the fire chief of the necessary clarification. Once the proposed benefit plan document modification language has been clarified by the fire chief and resubmitted to the executive director, the executive director shall arrange for the approved actuary retained by the Public Employees Retirement Association to prepare a benefit plan document modification cost estimate under the applicable provisions of section 356.215 and of the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement. Upon completion of the benefit plan document modification cost estimate, the executive director shall forward the estimate to the fire chief who requested it and to the chief financial officer of the municipality or entity with which the fire department is primarily associated.

(d) The fire chief, upon receipt of the cost estimate, shall circulate the cost estimate with the active firefighters in the fire department and shall take reasonable steps to provide the estimate results to any affected retired members of the fire department and their beneficiaries. The chief financial officer of the municipality or entity associated with the fire department shall present the proposed modification language and the cost estimate to the governing body of the municipality or entity for its consideration at a public hearing held for that purpose.

(e) If the governing body of the municipality or entity approves the modification language, the chief administrative officer of the municipality or entity shall notify the executive director of the Public Employees Retirement Association of that approval. The benefit plan document modification is effective on the January 1 next following the date of filing the approval with the Public Employees Retirement Association.

**History:** 2015 c 68 art 8 s 25; 2020 c 108 art 7 s 8

### **353G.13 LUMP-SUM RETIREMENT DIVISION; PORTABILITY.**

Subdivision 1. **Eligibility.** An active firefighter who is a member of the lump-sum retirement division of the retirement plan who also renders firefighting service and has good time service credit in the lump-sum retirement division of the retirement plan from another fire department, if the number of years of good time service credit in the plan from a combination of nonconcurrent periods totals at least five years, is eligible, upon complying with the other requirements of section 353G.09, to receive a lump-sum service pension upon filing an application in the manner prescribed by the executive director, computed as provided in subdivision 2.



Subd. 2. **Combined service pension computation.** The lump-sum service pension payable to a firefighter who qualifies under subdivision 1 is the per year of good time lump-sum service credit service pension amount in effect for each lump-sum retirement account in which the firefighter has one or more years of good time service credit as of the date on which the firefighter terminated active service with the fire department associated with the applicable account, multiplied by the number of years of good time service credit that the firefighter has in the applicable account and adjusted for the vesting percentage based on the total number of years of good time service covered in the applicable accounts.

Subd. 3. **Payment.** A lump-sum service pension under this section must be paid in a single payment, with the applicable portion of the total lump-sum service pension payment amount deducted from each lump-sum retirement account.

**History:** 2009 c 169 art 9 s 22; 2015 c 68 art 7 s 6,7; art 8 s 26

### 353G.14 PURCHASE OF ANNUITY CONTRACTS.

The executive director may purchase an annuity contract on behalf of a retiring firefighter retiring from the lump-sum retirement division of the statewide retirement plan with a total premium payment in an amount equal to the lump-sum service pension payable under section 353G.09 if the purchase was requested by the retiring firefighter in a manner prescribed by the executive director. The annuity contract must be purchased from an insurance carrier that is licensed to do business in this state. If purchased, the annuity contract is in lieu of any service pension or other benefit from the lump-sum retirement plan of the retirement plan. The annuity contract may be purchased at any time after the volunteer firefighter discontinues active service, but the annuity contract must stipulate that no annuity amounts are payable before the former volunteer firefighter attains the age of 50.

**History:** 2009 c 169 art 9 s 23; 2015 c 68 art 8 s 27

**353G.15** MS 2018 [Repealed, 1Sp2019 c 8 art 3 s 3]

### 353G.16 EXEMPTION FROM PROCESS.

The provisions of section 356.401 apply to the statewide volunteer firefighter plan.

**History:** 2009 c 169 art 9 s 25; 2015 c 68 art 8 s 29; 2020 c 108 art 7 s 9

### 353G.17 TRANSFER AUTHORIZED.

Subdivision 1. **Entity to initiate transfer.** (a) An entity operating a fire department with firefighters who are covered by the retirement plan may initiate the transfer of records, assets, and liabilities related to the firefighters' lump-sum or monthly benefits under the retirement plan to a relief association that, at the time of the transfer, will be associated with the entity. The entity may be a municipality, an independent nonprofit firefighting corporation, or a joint powers entity.

(b) A transfer is initiated by filing with the executive director the following:

(1) a notice of intent to initiate a transfer;

(2) a copy of the resolutions of the entity approving the transfer of records, assets, and liabilities from the retirement plan to a relief association; and

(3) for each firefighter, the firefighter's name, address, telephone number, and e-mail address, if any.

(c) The notice shall inform the executive director of the following:

- (1) the transfer effective date, which shall comply with paragraph (d);
  - (2) the name of the relief association and the municipality, independent nonprofit firefighting corporation, or joint powers entity with which the relief association is associated; and
  - (3) a summary of the type and level of pension or retirement benefits, including any ancillary benefits, provided by the relief association or, in the case of a new relief association, to be provided, and related terms and conditions.
- (d) If the notice of intent to transfer is filed with the executive director before September 1, the transfer takes effect on the next January 1. If the notice of intent to transfer is filed after August 31, the transfer takes effect on the January 1 following the one-year anniversary of the filing of the notice.

Subd. 2. **Approval by the relief association.** (a) Before a transfer of records, assets, and liabilities from the retirement plan to a relief association may occur, the board of trustees of the relief association shall adopt resolutions as follows:

- (1) approving and accepting the transfer of records, assets, and liabilities from the retirement plan; and
- (2) amending the bylaws of the relief association as necessary to add the firefighters whose benefits are being transferred from the retirement plan and to provide that each benefit being transferred retains vesting, distribution, and other rights to which the firefighter, for whom the benefit is being transferred, is entitled under the terms of the retirement plan to the date of the transfer.

The board of trustees shall file a copy of the resolutions with the executive director.

- (b) The board of trustees of the relief association shall file with the state auditor the following:
- (1) a copy of the resolutions required under paragraph (a);
  - (2) a copy of the bylaws of the relief association and any bylaw amendments;
  - (3) a copy of the relief association's investment policy;
  - (4) a statement that a board of trustees has been duly elected and each trustee's name, address, telephone number, and e-mail address, if any;
  - (5) a copy of the most recent annual financial, investment, and plan administration report filed under section 424A.014, unless the due date for the first report has not yet occurred; and
  - (6) a copy of the documentation indicating that a special fund has been established with a financial institution to receive a transfer of assets from the retirement plan.
- (c) Upon receipt of the information and documents required under paragraph (b), the state auditor shall issue to the relief association and the executive director written confirmation of receipt of all required information and documents.

Subd. 3. **Approval by the firefighters.** (a) A transfer under subdivision 1 shall not occur unless the active firefighters whose benefits are to be transferred from the retirement plan to a relief association approve the transfer by a vote of the firefighters conducted by the executive director.

- (b) The approval of the firefighters shall be determined by a vote of all active firefighters whose benefits are to be transferred. An affirmative vote of a majority of the firefighters voting shall constitute approval.
- (c) The executive director shall provide a voting ballot and the following to each active firefighter:

- (1) a summary of the benefits currently provided to the firefighters under the retirement plan;
  - (2) a copy of the resolutions of the municipality approving the transfer;
  - (3) a copy of the resolutions of the board of trustees approving the transfer;
  - (4) a copy of the notice of intent to transfer required under subdivision 1;
  - (5) a copy of the state auditor's confirmation required under subdivision 2, paragraph (c); and
  - (6) the instructions and time frame for voting. Firefighters shall be given no less than 30 days in which to vote.
- (d) The vote of any firefighter, including whether or not the firefighter voted, shall not be disclosed to any officer or member of the staff of the municipality or to any officer, trustee, or member of the staff of the relief association.
- (e) The executive director shall tally the votes and report the results to the relief association and the municipality.

Subd. 4. **Transfer process.** (a) Upon completion of the actions required under subdivisions 1 to 3, the retirement plan shall transfer to the relief association as of the effective date identified in the notice under subdivision 1, the records, assets, and liabilities related to the former and current firefighters with benefits under the retirement plan, along with any assets in excess of liabilities credited to the lump-sum account or the monthly benefit retirement account attributable to the firefighters and the municipality.

- (b) The executive director:
- (1) shall transfer the assets in cash;
  - (2) shall transfer any accounts receivable associated with the lump-sum account or monthly benefit retirement account;
  - (3) shall settle any accounts payable from the account before the transfer; and
  - (4) may deduct from the assets to be transferred reasonable costs incurred by the retirement plan to conduct the voting process and complete the transfer.

Subd. 5. **Relief association obligations and rights upon transfer from the retirement plan.** (a) Upon transfer of the assets of the lump-sum account or monthly benefit retirement account, the pension liabilities attributable to the benefits for the former and current firefighters shall become the obligation of the special fund of the relief association.

(b) Upon the transfer of the assets of the lump-sum account or monthly benefit retirement account, the board of trustees of the relief association has legal title to and management responsibility for the transferred assets as trustees for persons having a beneficial interest in those assets arising out of the benefit coverage provided by the account.

(c) The relief association is the successor in interest with respect to all claims against the retirement plan relating to the transferred lump-sum account or monthly benefit retirement account, except for claims alleging any act or acts by the retirement plan or its fiduciaries that were not done in good faith or that constituted a breach of fiduciary responsibility under chapter 356A.

(d) The value of each volunteer firefighter's benefit in the retirement plan on the day before the asset transfer shall be no less than the value of the volunteer firefighter's benefit on the day after the asset transfer. The relief association shall give credit, with respect to each firefighter whose benefit is being transferred, for all past service, including service credit with the retirement plan and with any predecessor relief association, to the extent credit is given for such service in the records of the retirement plan for that firefighter.

(e) Upon completion of the transfer of records, assets, and liabilities, the executive director shall provide written notice to the state auditor, the commissioner of revenue, and the secretary of state that the transfer is complete.

**Subd. 6. Failure to obtain approval, certification, or verification.** If the municipality, board of trustees, or firefighters fail to approve the transfer under subdivision 1, 2, or 3 or the requirements of subdivision 2, paragraph (b), are not met, the transfer of records, assets, and liabilities from the retirement plan to the relief association shall not occur.

**History:** 2018 c 211 art 16 s 10; 1Sp2019 c 6 art 22 s 8

### **353G.18 TERMINATION OF PARTICIPATION AND DISTRIBUTION OF BENEFITS.**

Subdivision 1. **Application.** This section provides the procedures that apply if an entity wishes to terminate its participation in the retirement plan and authorize the distribution of all assets credited to the entity's account in the retirement fund held for the benefit of the entity's former firefighters. If this section conflicts with another section of this chapter, this section controls.

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them unless the context clearly indicates otherwise.

(b) "Departing entity" means the entity seeking to terminate its participation in the retirement plan and the coverage of its departing firefighters by the retirement plan.

(c) "Departing firefighter" means each former firefighter of the departing entity who:

(1) is credited with one or more years of service under the retirement plan or under the relief association previously affiliated with the departing entity;

(2) has not yet received a distribution of the firefighter's pension benefit; and

(3) is entitled to a distribution of a pension benefit under this section.

(d) "Direct rollover" means a payment described under section 356.635, subdivisions 3 to 7. Consistent with the definition of "distributee" under section 356.635, subdivision 7, a departing firefighter is a distributee for the purpose of a direct rollover election.

(e) "Distribution date" means the date as of which all assets in the entity's account are to be distributed in the form of a payment to each departing firefighter or the survivor of each deceased departing firefighter or as a direct rollover, if elected under section 356.635, subdivisions 3 to 7.

(f) "Entity" means a municipality, an independent nonprofit firefighting corporation, or a joint powers entity that operates or had operated a fire department with firefighters who are covered by the retirement plan.

(g) "Entity's account" means the pension plan that is a component of the retirement plan and under which the departing firefighters have accrued lump sum pension benefits and with which the departing entity is affiliated.

(h) "Executive director" means the executive director of the Public Employees Retirement Association.

(i) "Termination date" means the effective date of the termination of the pension plan that is the entity's account. The termination date shall precede the distribution date.

(j) "Year of service" means a year of good time service credit certified by the departing entity's fire chief under section 353G.07. For purposes of determining the amount of a departing firefighter's pension benefit under this section, year of service includes any service credit earned by the departing firefighter under the relief association previously affiliated with the departing entity, which must be certified under section 424A.003 beginning January 1, 2019. Good time service credit ends when the departing firefighter's active service ends, notwithstanding a later termination date as defined in paragraph (i).

**Subd. 3. Eligibility.** An entity is eligible to terminate its participation in the retirement plan under this section if the entity satisfies the following conditions:

(1) the entity has eliminated its fire department or, if its fire department is ongoing, the fire department has ceased using the services of all departing firefighters and any other noncareer or volunteer firefighters; and

(2) the entity's account has assets sufficient to cover all liabilities, after taking into account the requirement to fully vest all departing firefighters and pay administrative expenses determined under subdivision 4, paragraph (c), clause (3).

**Subd. 4. Termination procedures.** (a) The participation of a departing entity in the retirement plan and the coverage of the departing firefighters by the retirement plan shall cease as of the date the requirements in this subdivision are completed and all assets credited to the entity's account are distributed.

(b) The governing board of the departing entity shall adopt the resolutions under subdivision 5 and deliver the resolutions to the executive director.

(c) The executive director shall:

(1) fully vest all departing firefighters as of the termination date and consider each departing firefighter 100 percent vested in the pension benefit accrued by the departing firefighter under the entity's account as of the termination date;

(2) determine the present value of each departing firefighter's accrued benefit as of the termination date, taking into account the benefit level under section 353G.11 or otherwise in effect for the departing firefighter as determined by the executive director;

(3) determine, as of the termination date, the value of accrued liabilities, including administrative expenses incurred or reasonably anticipated to be incurred through the distribution date, and the value of assets attributable to the entity's account; and

(4) to the extent necessary to minimize the risk of investment losses between the termination date and the distribution date, reinvest the assets credited to the entity's account in low-risk investments.

(d) If the entity's account has assets in excess of accrued liabilities, the executive director shall allocate the excess among all departing firefighters in the same proportion that the present value of the accrued

benefit for each departing firefighter bears to the total present value of the accrued benefits of all departing firefighters, and each departing firefighter's benefit, as determined under paragraph (c), clause (2), shall be increased by the departing firefighter's share of the excess.

(e) The executive director shall, as soon as practicable after the termination date, distribute to each departing firefighter, regardless of whether the departing firefighter has attained age 50, the firefighter's benefit as calculated by the executive director under paragraphs (c) and (d). The distribution shall be made in a lump sum, either as a payment to the departing firefighter or as a direct rollover, if elected by the firefighter. If the departing firefighter is deceased, then the firefighter's benefit shall be paid to the firefighter's survivor under section 353G.12 or as a direct rollover, if elected by the survivor.

(f) The executive director shall pay supplemental benefits under section 424A.10, but only to the extent that the executive director will be reimbursed under section 424A.10, subdivision 3.

Subd. 5. **Entity board resolutions.** If an entity wishes to cease its participation in the retirement plan and end the coverage of its former firefighters by the retirement plan, the entity's governing board shall approve the following resolutions in a form satisfactory to the executive director:

(1) a statement of intent to terminate participation in the retirement plan and cease the coverage by the retirement plan of the entity's former firefighters; and

(2) the proposed termination date, which must be the last day of a month and at least 90 days after the date the resolutions are to be delivered to the executive director.

**History:** *1Sp2019 c 8 art 3 s 1*