

## CHAPTER 353G

### VOLUNTEER FIREFIGHTERS; RETIREMENT

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#### 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. MS 2022 [Repealed, 2023 c 47 art 10 s 10]

*[See Note.]*

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

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

Subd. 8. **Member.** "Member" means an individual who is or was a volunteer firefighter providing service to a municipality or an independent nonprofit firefighting corporation that has elected coverage by the plan under section 353G.05, and whose service is covered by the plan.

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

Subd. 8b. **Monthly benefit division.** "Monthly benefit 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, including a volunteer firefighter relief association 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 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 division or the monthly benefit division, established by this chapter.

Subd. 12a. **Service credit.** "Service credit" means the period of service rendered by a volunteer firefighter that is certified under section 353G.07 by the fire chief of the fire department in which the volunteer firefighter serves. A volunteer firefighter's service credit equals all periods of service with any fire department covered by the plan.

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. 14a. **Vesting service credit.** "Vesting service credit" means service credit plus any earlier period of service rendered as a volunteer firefighter in a fire department in the state that was not covered by the plan at the time the service was rendered. The earlier period of service must be certified by the fire chief of the fire department covered by the plan in a manner similar to the requirements of section 353G.07. The volunteer firefighter must provide documentation in a form acceptable to the executive director regarding the earlier period of service.

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of the fire department of a municipality or an 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; 2022 c 65 art 4 s 1,2; 2023 c 47 art 10 s 1-4,9

**NOTE:** The repeal of subdivision 7 is effective January 1, 2024. The text may be viewed at MS 2022 in the statutes archives.

### **353G.02 PLAN AND FUND CREATION.**

Subdivision 1. **Plan.** The statewide volunteer firefighter plan, consisting of a lump-sum division and a monthly benefit 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 plan beyond investment returns are governed by section 353G.08 and must be deposited in the fund. The disbursements of the 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 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 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 division; allocation of reimbursement.** The administration expenses incurred by the Public Employees Retirement Association in the establishment of the monthly benefit 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; 2023 c 47 art 10 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 plan and about the legislative and administrative changes that would assist the plan in accommodating volunteer firefighters who are not members of the 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 division and one of whom is covered by the monthly benefit division, appointed by the Minnesota State Fire Chiefs Association;
- (5) three representatives of Minnesota volunteer firefighters who are covered by the lump-sum 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; 2023 c 47 art 10 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. **Entities eligible to request 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 division, if the volunteer firefighters for whom coverage is being requested are covered by a relief association that is a lump-sum defined benefit relief association or a defined contribution relief association governed by chapter 424A.

(b) 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 division or the monthly benefit division of the retirement plan, if the volunteer firefighters for whom coverage is being requested are covered by a relief association that is a monthly benefit defined benefit relief association governed by chapter 424A.

(c) 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 division of the plan.

Subd. 1a. **Requesting coverage.** (a) An entity that is eligible under subdivision 1 to make a request for coverage may initiate the process of obtaining coverage by filing a request with the executive director, as described in this subdivision.

(b) The request for coverage must be in writing and on a form prescribed by the executive director.

(c) In the request for coverage, the entity must identify the desired service pension amount and select a vesting schedule from the following options:

(1) incremental vesting beginning with 40 percent vested after completing five years of active service and increasing by four percent upon completion of each additional year of active service, until 100 percent vested upon completion of 20 years of active service;

(2) incremental vesting beginning with 40 percent vested after completing five years of active service and increasing by 12 percent upon completion of each additional year of active service, until 100 percent vested upon completion of ten years of active service; or

(3) incremental vesting beginning with 40 percent vested after completing ten years of active service and increasing by six percent upon completion of each additional year of active service, until 100 percent vested upon completion of 20 years of active service.

The entity must not select a vesting schedule that requires more years of service to become partially or fully vested than the vesting schedule in effect under the former affiliated relief association, if any.

(d) If the request for coverage is for volunteer firefighters covered by a monthly benefit defined benefit relief association, the entity making the request must elect coverage either by the monthly benefit division or by the lump-sum division.

(e) If the request for coverage is for volunteer firefighters covered by a relief association that provides both a monthly benefit and a lump-sum benefit, the entity making the request must elect coverage by the monthly benefit division, the lump-sum division, or by both divisions.

(f) If the request for coverage is for volunteer firefighters covered by a relief association with a plan governed by chapter 424A, the secretary of the relief association, following approval of the request by the board of the relief association, and the chief administrative officer of the entity affiliated with the relief association, following approval of the request by the governing body of the entity, must jointly make the request. If the relief association is affiliated with more than one entity, the chief administrative officer of each affiliated entity must execute the request.

(g) If the request for coverage is for volunteer firefighters who are not covered by a relief association, the chief administrative officer of the entity operating the fire department must make the request.

**Subd. 2. Cost analysis for coverage by the lump sum division.** (a) Upon receipt of a request for coverage by the lump-sum division, the executive director must prepare a cost analysis as described in this subdivision.

(b) The cost analysis under this subdivision must be based on:

(1) the service pension amount under section 353G.11 closest to the service pension amount provided by the relief association if the relief association is a lump-sum defined benefit plan, an amount that is 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 the lowest service pension amount under section 353G.11 if there is no relief association, rounded up; and

(2) if different than the amount under clause (1), the service pension amount identified in the request under subdivision 1a.

(c) The cost analysis must take into account the vesting option selected in the request under subdivision 1a.

(d) The cost analysis must be prepared using a mathematical procedure certified as accurate by an approved actuary retained by the Public Employees Retirement Association.

(e) If the request for coverage was made by a relief association 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 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 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. Cost analysis for coverage by the monthly benefit division.** (a) Upon receipt of a request for coverage by the monthly benefit division, the executive director must prepare a cost analysis as described in this subdivision.

(b) The cost analysis under this subdivision must be prepared by the approved actuary retained by the Public Employees Retirement Association. The cost analysis must be based on:

(1) the monthly service pension amount and other retirement benefit types and amounts in effect for the relief association as of the date of the request;

(2) if different than the amount under clause (1), the monthly pension amount identified in the request under subdivision 1a and evaluated in a special actuarial valuation prepared under sections 356.215 and 356.216; and

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

(c) The cost analysis must take into account the vesting option selected in the request under subdivision 1a.

(d) The secretary of the 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 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 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 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 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; 2022 c 65 art 4 s 3-6; 2023 c 47 art 10 s 9

### **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 coverage, if the relief association membership elects to retain the relief association as a nonprofit organization after the coverage election, the following changes must be implemented with respect to the relief association:

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

(2) 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 relief association under this section, the plan is the successor in interest of the special fund of the relief association for all claims against the special fund other than a claim against the special fund, the relief association, the municipality, the fire department, or any person connected with the 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 relief association, the plan may assert any applicable defense in any judicial proceeding which the board of trustees of the 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; 2023 c 47 art 10 s 9; art 11 s 1,2

### **353G.07 CERTIFICATION OF 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 division or the monthly benefit division shall certify to the executive director the 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 service credit rendered by the firefighter for the calendar year. The 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 service credit. If the 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 service credit. The final determination of 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 service credit certification is an official public document. If a false service credit certification is filed or if false information regarding service credits is provided, section 353.19 applies.

(d) The 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 service credit may be certified for a calendar year.

(e) If a firefighter covered by the 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 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 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; 2022 c 65 art 4 s 25; 2023 c 47 art 10 s 9

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

Subdivision 1. **Annual funding requirements; lump-sum division.** (a) Annually, the executive director shall determine the funding requirements of each account in the lump-sum 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 investment return 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 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 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 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 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 division is the annual financial requirements of the lump-sum account of the 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 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 plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the 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 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 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 division are the annual financial requirements of the monthly benefit account of the 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 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 plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the 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 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 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; 2022 c 55 art 1 s 154; 2022 c 65 art 4 s 25; 2023 c 47 art 10 s 9

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

Subdivision 1. **Entitlement.** (a) A member with at least one year of service credit with a fire department with active firefighters that are covered by the plan is entitled to a retirement benefit as defined in subdivision 1a from the fire department's account in the plan if the member:

- (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 satisfied the minimum service requirement in paragraph (b) or (c), as applicable; and
- (4) applies in a manner prescribed by the executive director.

(b) If the member is a member of the lump-sum division, the member satisfies the minimum service requirement if the member is at least 40 percent vested as determined under subdivision 2.

(c) If the member is a member of the monthly benefit division, the member satisfies the minimum service requirement if the member has completed at least the minimum number of years of service specified in the retirement benefit plan document applicable to the member.

Subd. 1a. **Retirement benefit.** (a) A volunteer firefighter who is entitled to a service pension under subdivision 1 must receive a retirement benefit under subdivision 1, paragraph (a) or (b), as applicable.

(b) The retirement benefit of a member of the lump-sum division is equal to the number of years of service credit certified under section 353G.07 for the member, multiplied by the service pension level applicable to the member under section 353G.11, multiplied by the member's vested percentage under subdivision 2.

(c) The retirement benefit of a member of the monthly benefit division is equal to the number of years of service credit certified under section 353G.07 for the member, multiplied by the service pension level applicable to the member under section 353G.112, multiplied by the member's vested percentage under subdivision 2.

Subd. 2. **Vested percentage.** A member of the plan has a nonforfeitable right to a retirement benefit, up to the percent vested. The member's vested percentage is determined under paragraph (a), (b), or (c), as applicable.

(a) If the member is a member of the lump-sum division and employed in a fire department that joined the plan before January 1, 2023, the member's vested percentage is equal to the percentage that corresponds to the number of years of vesting service credit, as follows:

Completed years of service credit	Vested percentage
less than 5	0 percent
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 the member is a member of the lump-sum division and employed in a fire department that joined the plan on or after January 1, 2023, the member's vested percentage is equal to the percentage determined by applying the vesting schedule selected in the request for coverage under section 353G.05, subdivision 1a, taking into account years of vesting service credit.

(c) If the member is a member of the monthly benefit division and has completed 20 years of service as a member of the plan, the member is 100 percent vested. If the member has completed less than 20 years of

service as a member of the plan, the member's vested percentage is equal to the percentage determined under the retirement benefit plan document applicable to the member.

Subd. 3. MS 2020 [Repealed, 2022 c 65 art 4 s 26]

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 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; 2022 c 65 art 4 s 7,8; 2023 c 47 art 10 s 5-7,9

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

A person who was an active member of a fire department covered by either the lump-sum division or the monthly benefit division of the plan who has separated from active firefighting service for at least 30 days and who has completed at least five years of 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; 2022 c 65 art 4 s 25; 2023 c 47 art 10 s 9

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

Subdivision 1. **Service pension levels; lump-sum division.** Except as provided in subdivision 1a, the lump-sum division of the plan provides the following levels of service pension amounts per full year of 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 maximum lump-sum service pension amount permitted under section 424A.02, subdivision 3, 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 division of the plan before January 1, 2010, and selected the \$750 per year of 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 plan before January 1, 2015, and selected a service pension level under subdivision 1, other than a 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 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 division; or (2) the governing body operating a fire department that has active membership covered by the lump-sum 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 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 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; 2021 c 22 art 10 s 35; 2022 c 65 art 4 s 9,25; 2023 c 47 art 10 s 9

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

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

**History:** 2015 c 68 art 8 s 21; 2023 c 47 art 10 s 9

### **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 plan.

(b) If the board approves the arrangement, disability coverage for the lump-sum division of the statewide 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 division is the disability service pension amount specified in the 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; 2023 c 47 art 10 s 9

**353G.12 SURVIVOR BENEFIT.**

Subdivision 1. **Entitlement.** (a) A survivor of a deceased active member of the plan or a deceased deferred member of the 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 plan; survivor benefit amount.** The amount of the survivor benefit for the lump-sum division is the amount of the lump-sum service pension that would have been payable to the member of the lump-sum division on the date of death if the member had been age 50 or older on that date.

Subd. 3. **Monthly benefit plan; survivor benefit amount.** The amount of the survivor benefit for the monthly benefit 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; 2023 c 47 art 10 s 9

**353G.121 MONTHLY BENEFIT 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 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; 2023 c 47 art 10 s 9

**353G.13** MS 2022 [Repealed, 2023 c 47 art 10 s 10]

**NOTE:** The repeal of this section is effective January 1, 2024. The text may be viewed at MS 2022 in the statutes archives.

### **353G.14 DISTRIBUTIONS FROM LUMP-SUM DIVISION.**

Subdivision 1. **Lump sum.** Unless a volunteer firefighter requests an annuity under subdivision 2, the executive director must distribute a lump-sum service pension in the form of a single payment from the account of each fire department covered by the plan in which the volunteer firefighter earned a retirement benefit under section 353G.09.

Subd. 2. **Annuity.** The executive director may purchase an annuity contract on behalf of a volunteer firefighter retiring from the lump-sum division of the 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 volunteer 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 plan of the 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 volunteer firefighter attains the age of 50.

**History:** 2009 c 169 art 9 s 23; 2015 c 68 art 8 s 27; 2023 c 47 art 10 s 8,9

**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 plan may initiate the transfer of records, assets, and liabilities related to the firefighters' lump-sum or monthly benefits under the 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 plan to a relief association; and
- (3) for each firefighter, the firefighter's name, address, telephone number, and email 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 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 plan; and

(2) amending the bylaws of the relief association as necessary to add the firefighters whose benefits are being transferred from the 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 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 email 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 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 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 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 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 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 plan to conduct the voting process and complete the transfer.

**Subd. 5. Relief association obligations and rights upon transfer from the 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 plan relating to the transferred lump-sum account or monthly benefit retirement account, except for claims alleging any act or acts by the 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 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 plan and with any predecessor relief association, to the extent credit is given for such service in the records of the 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 plan to the relief association shall not occur.

**History:** 2018 c 211 art 16 s 10; 1Sp2019 c 6 art 22 s 8; 2023 c 47 art 10 s 9

### 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 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 plan and the coverage of its departing firefighters by the 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 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 plan.

(g) "Entity's account" means the pension plan that is a component of the 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 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. 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 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 plan and the coverage of the departing firefighters by the 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 plan and end the coverage of its former firefighters by the 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 plan and cease the coverage by the 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; 2022 c 65 art 4 s 25; 2023 c 47 art 10 s 9*