

S.F. 358

(Betzold)

H.F. 557

(Haas)

**Executive Summary of Commission Staff Materials**

<u>Affected Pension Plan(s):</u>	Osseo Volunteer Firefighter Relief Association
<u>Relevant Provisions of Law:</u>	Local Law
<u>General Nature of Proposal:</u>	Appropriation To Revenue Commissioner For Payment To The City Of Osseo And The Osseo Volunteer Firefighter Relief Association
<u>Date of Summary:</u>	March 2, 2001

Specific Proposed Change(s)

- State General Fund Appropriation. Proposes State General Fund appropriation of \$178,627, with \$80,000 allocated to the City of Osseo and \$98,627 allocated to the Osseo Volunteer Firefighter Relief Association.

Policy Issues Raised by the Proposed Legislation

1. Appropriations Question Or Pension Policy Question. While the situation grew out of a public pension plan, the issue is the financial capacity of the City of Osseo to bear the cost of a local mistake, which is usually the jurisdiction of other legislative bodies.
2. Unclear Equitable Considerations. To determine an equitable claim to any proposed State funding, fact-finding about the actions of the City of Osseo and the Osseo Volunteer Firefighter Relief Association will be necessary
3. Financial Condition Of The Osseo Volunteer Firefighter Relief Association. The financial condition of the Osseo Volunteer Firefighter Relief Association declined markedly in the mid-1990s, but has rebounded as of 1999 and is currently favorable.



TO: Members Of The Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: S.F. 358 (Betzold); H.F. 557 (Haas): City Of Osseo; Appropriation Request To Offset Various Losses Related To The Osseo Volunteer Firefighter Relief Association

DATE: March 1, 2001

Summary of S.F. 358 (Betzold); H.F. 557 (Haas)

S.F. 358 (Betzold); H.F. 557 (Haas) appropriates \$178,627 to the Commissioner of Revenue for payment to the City of Osseo and to the special fund of the Osseo Volunteer Firefighter Relief Association to offset the impact of an unexpected liability increase caused by the consultant's mistakes and misrepresentations during the conversion of the volunteer firefighter relief association from a monthly benefit pension plan to a lump sum pension plan. It also provides for a reimbursement to the State of as much of that appropriation as the City of Osseo may recover in any subsequent litigation arising out of the volunteer firefighter relief association benefit conversion problem.

Background Information On The Osseo Volunteer Firefighter Relief Association And City Of Osseo Funding Problem

As Dave Callister, Osseo City Administrator, and Daniel J. Greensweig, Attorney, Kennedy & Graven, Chartered, have explained the situation to the Commission staff in 2000, the process of converting the Osseo Volunteer Firefighter Relief Association from a monthly benefit pension plan to a lump sum pension plan in the mid-1990s caused a considerable unexpected increase in the accrued liabilities of the relief association and significant unbudgeted increases in the volunteer firefighter relief association funding required of the City of Osseo. They estimate the impact on the relief association and the city of the unexpected liability increase at \$178,627.

In 1994, the Osseo Volunteer Firefighter Relief Association began the process of converting the relief association from a monthly benefit pension plan to a lump sum pension plan. At the time, the Osseo Volunteer Firefighter Relief Association was more than fully funded. On that basis, the City of Osseo reportedly indicated that it would approve a conversion of the relief association that included an increase in the lump sum benefit amount above what would be an equivalent to the monthly benefit so long as the volunteer firefighter relief association would not require city funding beyond the \$15,000 annual city contribution in place previously.

As part of the conversion process, the Osseo Volunteer Firefighter Relief Association retained an independent consultant who apparently had some experience with conversions of the Edina Volunteer Firefighter Relief Association and the Fridley Volunteer Firefighter Relief Association to defined contribution pension plans. Apparently, that consultant oversold his capabilities and the conversion/benefit increase package that he assembled, and that Osseo City Council approved based on the consultant's assurances about future city funding obligations, ended up greatly increasing the expected amount of the Osseo Volunteer Firefighter Relief Association's unfunded actuarial accrued liability and causing an increase in the Osseo city contribution to the volunteer firefighter relief association from \$15,000 to \$60,000 annually.

The City of Osseo has analyzed the potential for litigation against the consultant who it believes caused the problem and the other individuals and firms connected with the conversion, but has determined that the responsible consultant has no significant available assets or insurance against which it can recover damages and has determined that no other person or firm bears any substantial responsibility for the misinformation that caused the funding problem. Prior to the statute of limitations running out in 2000, the City of Osseo considered filing suit against the consultant in order to gain a judgement in the event that the consultant eventually gains more financial resources.

Discussion

S.F. 358 (Betzold); H.F. 557 (Haas) would provide State General Fund funding to defray the adverse impact suffered by the City of Osseo and the Osseo Volunteer Firefighter Relief Association by virtue of errors made as a result of incorrect consultant advice during the process of converting the Osseo Volunteer Firefighter Relief Association from a monthly benefit relief association to a lump sum relief association. The requested appropriation is \$178,627, to be allocated \$80,000 to the City of Osseo and \$98,627 to the special fund of the Osseo Volunteer Firefighter Relief Association.

The proposed legislation raises several public policy issues, as follows:

1. Question Of Appropriations Or Pension Policy. The policy issue is whether the primary question with respect to the proposed legislation for legislative resolution is an appropriations question or a pension policy question. While the financial difficulty sought to be resolved in the proposed legislation arises in the context of a public pension plan, the Osseo Volunteer Firefighter Relief Association, the fundamental request here relates to the apparent lack of financial capacity of the city of Osseo to bear the financial consequences of a past error and the apparent lack of any source of recovery for the City of Osseo other than the State of Minnesota. While an exploration of the management, operation, and oversight of the Osseo Volunteer Firefighter Relief Association may shed light on the relative equities of the City of Osseo in this matter, the primary issue is the relationship between the State and its subdivisions and the appropriateness of the State aiding municipalities that fall into financial difficulties, which is an issue usually outside of the scope of the jurisdiction of the Commission.

2. Equitable Considerations Relating To The Osseo Volunteer Firefighter Relief Association And The City Of Osseo. The policy issue is the equitable position of the City of Osseo and the Osseo Volunteer Firefighter Relief Association in requesting financial assistance from the State. The financial problem arose from errors made in converting the Osseo Volunteer Firefighter Relief Association from a monthly benefit defined benefit pension plan to a lump sum defined benefit pension plan. Most Minnesota volunteer firefighter relief associations are lump sum defined benefit pension plans and pay a benefit of a specified amount per year of volunteer firefighter service in one payment or a small number of payments, rather than a monthly annuity for life, as a monthly benefit defined benefit pension plan does. State regulation of the two plans differ considerably, with the regulatory requirements on lump sum pension plans being generally less expensive to administer and less onerous. In 1994, Osseo approved a conversion of its monthly benefit relief association to a lump sum relief association and approved an increase in the lump sum benefit amount, causing the financial problem it now faces. The City of Osseo contends that it relied on a consultant to design the conversion and recommend the ultimate lump sum benefit amount, that the consultant made various errors that city officials were not in a position to detect, and that the consultant lacks the current financial resources to rectify those errors upon litigation by the city or otherwise. To fully determine Osseo's equities, if necessary, the Commission should consider taking testimony from the city and the volunteer firefighter relief association on the manner in which they selected the consultant for the relief association conversion, the consultant's credentials and background, the role of actuarial, legal, and other consultants involved in the process, the diligence of the volunteer firefighter relief association board in the process, and the oversight capabilities and efforts of the Osseo City Council and city staff during the conversion.

3. Current And Past Financial Condition Of The Osseo Volunteer Firefighter Relief Association. The policy issue is the relative financial condition of the Osseo Volunteer Firefighter Relief Association before the apparent benefit conversion error and currently. The following compares the financial condition of the Osseo Volunteer Firefighter Relief Association as of December 31, 1993, as of December 31, 1994, as of December 31, 1997, and as of December 31, 1999, the most recent data available from the State Auditor's Office:

	1993	1994	1997	1999
<u>Membership</u>				
Active	24	26	25	24
Retired	23	0	0	0
Deferred	0	0	2	1
Total	47	26	27	25
<u>Funded Condition</u>				
Actuarial Accrued Liability	\$605,473	\$103,838	\$451,571	420,563
Assets	633,864	172,135	368,386	430,139
Unfunded/Surplus	(\$28,391)	(\$68,297)	\$83,185	(\$9,576)
Funding Ratio	104.69%	165.77%	81.58%	102.28%
<u>Financial Requirements and Financing</u>				
Normal Cost	\$14,310	\$12,980	\$37,565	\$37,624
Admin Expenses	2,223	13,393	2,684	2,898
Amortization	0	0	\$22,704	0
Total Financial Requirements	\$16,543	\$26,373	\$62,953	\$40,522
Fire State Aid	\$6,809	\$7,140	\$9,179	\$9,210
Municipal Contribution	9,000	7,300	49,006	33,285
Other	552	25,820	18,419	2,000
Total Support	\$16,461	\$40,260	\$76,604	\$44,495
Total Financial Requirements	\$16,543	\$26,373	\$62,953	\$40,522
Total Support	16,461	40,260	76,604	44,495
Difference	\$82	(\$13,887)	(\$13,651)	(\$3,973)

Senator Betzold introduced--

S.F. No. 358: Referred to the Committee on Finance.

1 A bill for an act
 2 relating to appropriations; city of Osseo; offsetting
 3 the consequences of certain unplanned increases in the
 4 liabilities of the Osseo volunteer firefighters relief
 5 association; appropriating money.

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

7 Section 1. [APPROPRIATION; CITY OF OSSEO AND OSSEO
 8 VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION.]

9 (a) The sum of \$178,627 is appropriated for the biennium
 10 ending June 30, 2003, from the general fund to the commissioner
 11 of revenue for allocation as follows:

12 (1) \$80,000 for deposit in the general fund of the city of
 13 Osseo; and

14 (2) \$98,627 for deposit in the special fund of the Osseo
 15 volunteer firefighter relief association. The amounts are to
 16 offset the consequences of additional unplanned liabilities
 17 incurred by the relief association following incorrect and
 18 inappropriate representations by a relief association-retained
 19 consultant upon the conversion of the relief association from a
 20 monthly benefit pension plan to a lump sum pension plan.

21 (b) If the city of Osseo or the Osseo volunteer firefighter
 22 relief association recovers in the course of litigation any
 23 portion of the consequences of additional liabilities incurred
 24 as described in paragraph (a) from the applicable consultant,
 25 the amount of the recovery in excess of reasonable attorney fees

1 and costs of litigation up to the amount set forth in paragraph
2 (a) plus compound interest at the average investment performance
3 rate of the treasurer's cash pool from the date of the
4 appropriation to the date of repayment must be repaid to the
5 general fund.

6 Sec. 2. [EFFECTIVE DATE.]

7 Section 1 is effective on the first day of the month next
8 following final enactment.