



Revisor Document 10-5059

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Volunteer firefighter relief associations
Relevant Provisions of Law: Minnesota Statutes, Chapters 69, 356A, and 424A
General Nature of Proposal: Implementation of the State Auditor's Volunteer Fire Working Group recommendations.
Date of Summary: February 2, 2010

Specific Proposed Changes

- Makes technical corrections.
- Revises the 2009 break-in-service return to active firefighting authorizations.
- Permits transfers of lump sum service pension amounts to the Minnesota Deferred Compensation Plan.
- Clarifies/revises the payout order of volunteer firefighter relief association survivor/death benefits.
- Authorizes State Auditor correction of special fund erroneous deposits.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of various technical corrections.
2. Appropriateness of the revisions in the 2009 break-in-service return to active firefighting provision.
3. Appropriateness of authority to transfer volunteer firefighter relief association lump sum service pensions to the Minnesota Deferred Compensation Plan.
4. Appropriateness of the clarification and revisions in survivor benefit payment ordering.
5. Appropriateness of the authorization of State Auditor corrections of erroneous special fund deposits.

Potential Amendments

There are no proposed amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LAM*
RE: Revisor Document 10-5059: VFRA's; Recommendations of the State Auditor's Volunteer Firefighter Working Group
DATE: February 3, 2010

General Summary of Revisor Document 10-5059

Revisor Document 10-5059 amends various portions of Minnesota Statutes, Chapters 69, 656A, and 424A, statutes relating in whole or in part to volunteer firefighter relief associations, to implement the recommendations of the 2009-2010 Volunteer Firefighter Working Group empanelled by the Office of the State Auditor, which are:

1. Makes Various Technical Corrections. The three current statutes requiring the municipal ratification of volunteer firefighter relief association benefit changes are revised to be consistent. An obsolete cross-reference relating to the maintenance of sufficient liquidity in the investment of relief association assets is clarified. Errors from the 2009 volunteer firefighter relief association benefit and organizational law recodification are corrected relating to minors serving as volunteer firefighters, to investment performance creditable to defined contribution volunteer firefighter relief association inactive accounts, and the amount of volunteer firefighter relief association ancillary benefits in comparison to the volunteer firefighter relief association service pension. *(Sections 1-4, 7-8, 10, and 13)*
2. Revises the 2009 Break-in-Service Return to Active Firefighting Authorizations. The authorizations for inactive, deferred, or retired volunteer firefighters to return to active firefighter service enacted in 2009 are reorganized based on the pre-return status of the person and refined based on one year of experience with the 2009 provision. *(Section 5)*
3. Permits Transfers of Lump Sum Service Pension Amounts to the Minnesota Deferred Compensation Plan. Authority akin to purchases of insurance company annuities or transfers to individual retirement accounts with lump sum volunteer firefighter relief association service pension amounts for transfer to the Minnesota Deferred Compensation Plan is added and the status of all three as authorized volunteer firefighter relief association special fund disbursements is clarified. *(Sections 6 and 11)*
4. Clarifies/Revises the Payout Order of Volunteer Firefighter Relief Association Survivor/Death Benefits. The order for the payment of volunteer firefighter relief association survivor or death benefits is shifted from the volunteer firefighter relief association special fund disbursements provision to the specific volunteer firefighter relief association ancillary benefit limitation provisions and the potential for making death benefits payable to a designated beneficiary is clarified, including providing for a surviving spouse waiver in favor of a designated beneficiary. *(Sections 8-9, 11, and 13)*
5. Authorizes State Auditor Correction of Special Fund Erroneous Deposits. The State Auditor, based on evidence of a good faith error and clarification that action would not be contrary to federal or state law, is permitted to order the correction of an erroneous deposit of amounts in a volunteer firefighter relief association special fund. *(Section 12)*

Section-by-Section Summary

A section-by-section summary of Revisor Document 10-5059 is attached.

Discussion and Analysis

Revisor Document 10-5059 amends portions of Minnesota Statutes, Chapters 69, 356A, and 424A, relating mostly to volunteer firefighter relief associations, to implement the recommendations of the Office of the State Auditor's Volunteer Firefighter Working Group assembled over the 2009-2010 Interim by making technical corrections in various statutory provisions identified as problematic by the Office of the State Auditor Pension Division, by revising the 2009 break-in-service return to active firefighting service authorizations, by permitting transfers of lump sum service pension amounts to the Minnesota Deferred Compensation Plan, by clarifying and revising the payout order of volunteer firefighter relief

association survivor and death benefits, and by authorizing the State Auditor to order the correction of special fund erroneous deposits in certain instances.

Document 10-5059 raises several pension and related public policy issues for Commission consideration and possible discussion, including the following:

1. Appropriateness of Various Technical Corrections. The policy issue is whether or not the proposed technical corrections accurately characterize statutory errors or omissions and provide appropriate resolutions. The technical corrections identified by the Pension Division of the Office of the State Auditor and reviewed by the 2009-2010 Working Group appear to be actual errors or omissions, appear to have been adequately vetted within the volunteer firefighter community, and appear to be appropriate.
 - Sections 1, 2, and 10, relate to all three separate current statutory provisions that require municipal approval of volunteer firefighter relief association benefit changes, identifying slight differences between the provisions, and aligning the provisions substantively.
 - Section 3 relates to the special liquidity investment requirement in the public pension plan fiduciary responsibility chapter applicable to assets needed to pay pensions and benefits required in the near term, identifies an obsolete or incorrect statutory reference, and clarifies that the requirement applies to public pension plans of all asset sizes or manner of investment management.
 - Section 4 relates to a prohibition on service by minors as volunteer firefighters and eliminates from volunteer firefighter relief association regulation a provisions that was incompletely moved to fire department regulation in 2009.
 - Section 7 relates to the crediting of investment performance by defined contribution volunteer firefighter relief associations and addresses the 2009 omission of investment performance crediting for inactive member accounts, which is the common practice for defined contribution volunteer firefighter relief associations.
 - Section 8 relates to the amount of defined contribution volunteer firefighter relief association ancillary benefits and corrects an error in the 2009 defined contribution volunteer firefighter relief association regulation clarification, setting the ancillary benefit amount at the combined amount of vested and non-vested individual member accounts.
 - Section 13 relates to a pre-2009 reemployed retiree service pension repayment requirement, which was both amended and repealed in 2009, eliminating a Revisor of Statutes note by repealing the amendatory provision in the 2009 Omnibus Pension Bill.
2. Appropriateness of the Revisions in the 2009 Break-In-Service Return to Active Firefighting Provision. The policy issue is the appropriateness of the proposed revisions in the 2009 Omnibus Pension Bill provisions that permitted volunteer firefighter relief associations to allow retired firefighters to return to active volunteer firefighter relief association membership and pension credit. Before 2009, volunteer firefighter relief association laws essentially prohibited retired firefighters from returning to active volunteer firefighter relief association membership by requiring the repayment of any service pension received and was unclear in regulating firefighters returning from extended leaves or from extended breaks in service. In 2009, the omnibus pension bill implemented the 2008-2009 interim volunteer firefighter working group recommendation to permit the return of retired firefighters and to regulate firefighters returning from extended leaves or breaks in service. The 2009 changes were intended to assist those municipalities and volunteer firefighter relief associations where the pool of potential firefighters is limited by allowing retired firefighters to return to active firefighting and active volunteer firefighter relief association membership and benefit coverage and to provide clear regulation of a return to active volunteer firefighter relief association membership by former firefighters on extended leaves or having taken extended breaks in service. The changes recommended by the Office of the State Auditor's volunteer firefighter working group exclude leaves under state or federal law from the 2009 break-in-service requirements, exclude all firefighters returning from an approved leave of absence under one year from any minimum service resumption requirement, permit volunteer firefighter relief association bylaws from excluding firefighters returning from an unapproved break in service minimum service resumption period, permit monthly benefit volunteer firefighter relief association retirees to continue to collect the service pension upon a return to active firefighting service. No comprehensive evidence on the use of the 2009 break-in-service return to active firefighting service and active volunteer firefighter relief association membership apparently exists, so it is unclear how the 2009 law boosted volunteer firefighter rolls. Consequently, it is not clear how the proposed changes will assist municipalities in meeting volunteer firefighter staffing needs. The demand for a return to active firefighting service and volunteer firefighter relief association membership in 2009 and currently raises questions about the usefulness of the broad design of volunteer firefighter relief association benefit plan designs, especially the near-universal age 50 retirement age, in meeting the firefighter retention purpose that it is intended to accomplish.

3. Appropriateness of Authority to Transfer Volunteer Firefighter Relief Association Lump Sum Service Pensions to the Minnesota Deferred Compensation Plan. The policy issue is the appropriateness of expanding the existing authority for insurance annuity purchases with lump sum service pensions or for individual retirement account transfers with lump sum service pensions to include transfers to the Minnesota Deferred Compensation Plan. The proposal was an alternative resolution fashioned by the State Auditor's volunteer firefighter working group for a firefighter request for authority to transfer a lump sum volunteer firefighter relief association service pension to a corporate Internal Revenue Code Section 401(k) retirement plan account. The Minnesota Deferred Compensation Plan, an Internal Revenue Code Section 457 plan, is a tax-deferred savings vehicle for the public sector that, under relatively recent federal tax legislation, functions very similarly to Internal Revenue Code Section 401(k) plans or Section 408 individual retirement accounts, but avoids a number of the complications for the individual in using corporate-sponsored retirement savings plans and avoids the confusion for the savings plan from corporate plan unfamiliarity about the public sector retirement system generally and volunteer firefighter relief associations specifically. The change, building on existing precedents and unlikely to create any new problematic precedents, appears to be appropriate.
4. Appropriateness of the Clarification and Revisions in Survivor Benefit Payment Ordering. The policy issue is the appropriateness of the proposed clarifications and revisions in the statutory priorities in the payment of survivor benefits and death benefits by volunteer firefighter relief associations. Current law limits ancillary benefits, which include survivor or death benefits, in Minnesota Statutes, Section 424A.016, Subdivision 7 (defined contribution plans), and 424A.02, Subdivision 9 (defined benefit plans), and authorizes the payment of survivor and death benefits and sets a priority for those benefit payments in Minnesota Statutes, Section 424A.05, Subdivision 3, Paragraphs (a), Clause (3), and (b). The proposed change restructures these statutory provisions, leaving Minnesota Statutes, Section 424A.05, Subdivision 3, Paragraph (a), Clause (3), as the authorization of the disbursements of survivor and death benefits from volunteer firefighter relief association special funds, and moving the payment order and priority provisions back to the ancillary benefit regulation provisions of Minnesota Statutes, Sections 424A.016, Subdivision 7, and 424A.02, Subdivision 9, and eliminates a definition of surviving spouse that adds little or nothing beyond the common parlance definition of the term. Additionally, in response to the interest by some in the volunteer fire community who expressed a desire to change the survivor benefit statutes to limit the duration of benefit payments for monthly plans, to allow flexibility in defining when a surviving spouse is determined, and to allow benefits to be paid directly to a designated beneficiary. The recommended changes make a slight modification to the order of payment so that benefits are paid to the surviving spouse, or if none, to the surviving children, allow a spouse to waive the right to the survivor benefit if there are no surviving children so that the benefit could be paid directly to a designated beneficiary, allow monthly and monthly/lump sum plans to limit survivor benefit payments to the surviving spouse and surviving children, with benefits paid to designated beneficiaries or to an estate if authorized by the bylaws, allow monthly and monthly/lump sum plans to limit the duration of survivor benefit payments when paid as a monthly benefit, and allow the survivor benefit to be paid to a trust if the trust is payable to the surviving children and there is no surviving spouse. The working group assembled the substantive changes after long consideration and with input from other members of the volunteer firefighter community. The Commission should consider seeking testimony from interested parties about the impact of the various substantive changes on the various volunteer firefighter relief associations and volunteer firefighters.
5. Appropriateness of the Authorization of State Auditor Corrections of Erroneous Special Fund Deposits. The policy issue is the appropriateness of authorizing the State Auditor to order the correction of deposits into volunteer firefighter relief association special funds made in error. Volunteer firefighter relief association special funds are the tax-supported pension benefit funds of the organizations and are subject to federal income tax law and state law restrictions on their disbursement. Special funds differ from volunteer firefighter relief association general funds, which do not receive tax support and are largely unrestricted in their disbursements. The proposal would permit the State Auditor to order the correction of an erroneous special fund deposit if there is presented evidence of a good faith error and provided legal opinions that the correction would not violate state or federal law. Federal Internal Revenue Code Section 401(a)(2) generally prohibits disbursements from tax-qualified pension funds other than for the payment of authorized retirement benefits or necessary administrative expenses. The provision gives the State Auditor the authority to correct erroneous volunteer firefighter relief association special fund deposits that sometimes occur to the extent that the correction would not disqualify the volunteer firefighter relief association from favorable federal tax treatment or violate state law. As such, the special authority appears to be appropriate. The Commission should consider taking testimony from the Office of the State Auditor about the office's intent in implementing the new authority.

Section by Section Summary of Revisor Document 10-5059

Sec.	Pg.Ln	Retirement Plan	Stat. Provision	Summary
1		Lump Sum VFRAs	69.772, Subd. 6	Makes municipal ratification of lump sum benefit increase requirement consistent with M.S., Sec. 424A.02, Subd. 10.
2		Monthly Benefit VFRAs	69.773, Subd. 6	Makes municipal ratification of monthly benefit benefit increase requirement consistent with M.S., Sec. 424A.02, Subd. 10.
3		Various retirement plans	356A.06, Subd. 8	Clarifies general application of the minimum liquidity need investment requirement of the public pension plan fiduciary responsibility law.
4		VFRAs	424A.01, Subd. 1	Removes unnecessary provision that was moved to M.S., Chapter 420, in 2009.
5		VFRAs	424A.01, Subd. 6	Breaks the return to firefighting service membership provision into paragraphs, exempts from the membership resumption requirements any return from service break under state or federal law, clarifies leave of absence and break-in-service length qualifier, and permits monthly benefit retirees to receive a service pension after a return to service.
6		All VFRAs	424A.015	Permits The Transfer Of Lump Sum Service Pension Amounts To The Minnesota Deferred Compensation Plan.
7		Defined Contribution VFRAs	424A.016, Subd. 4	Clarifies that the defined contribution volunteer firefighter relief associations may credit investment performance to inactive member accounts.
8		Defined Contribution VFRAs	424A.016, Subd. 7	Clarifies that the ancillary benefit level limit is the vested and non-vested account amounts, moves the payment priority provisions previously contained in M.S., Sec. 424A.05, Subd. 3, Para. (a), Clause (3), to the ancillary benefit limitation provision, clarifies when designated beneficiaries may receive a survivor benefit, and permits surviving spouses to waive all or part of survivor benefits in favor of a designated beneficiary if there is no surviving child.
9		Defined Benefit VFRAs	424A.02, Subd. 9	Moves the payment priority provisions previously contained in M.S., Sec. 424A.05, Subd. 3, Para. (a), Clause (3), to the ancillary benefit limitation provision, clarifies when designated beneficiaries may receive a survivor benefit, permits surviving spouse to waive all or part of survivor benefits in favor of a designated beneficiary if there is no surviving child, and permits monthly benefit volunteer firefighter relief associations to limit the amount of the survivor benefit amount payable to a designated beneficiary.
10		Defined Benefit VFRAs	424A.02, Subd. 10	Makes municipal ratification of defined benefit relief association benefit increase requirement consistent with M.S., Sec. 69.772, Subd. 6, and 69.773, Subd. 6.
11		VFRAs, generally	424A.05, Subd. 3	Permits transfers of lump sum pension amounts to the Minnesota Deferred Compensation Plan in the authorized disbursements of the volunteer firefighter relief association special fund, clarifies that the 1988 purchase of insurance carrier annuity authority and 1993 transfer to individual retirement account authority are authorized special fund disbursements, and removes the survivor benefit payment priority provisions moved to other sections in sections 8 and 9.
12		VFRAs, generally	424A.05, New Subd. 3b	Permits the State Auditor to order the correction of erroneous special fund deposits if made in good faith and if consistent with state and federal law.
13		--	Repealer	Repeals the definition of surviving spouse in favor of its commonly understood definition and repeals a 2009 change in a repealed section to eliminate a Revisor's note.

1.1 A bill for an act

1.2 relating to retirement; volunteer fire relief associations; making various technical
 1.3 corrections; revising break-in-service return to firefighting authorizations;
 1.4 authorizing Minnesota deferred compensation plan service pension transfers;
 1.5 revising payout defaults in survivor benefits; authorizing corrections of certain
 1.6 special fund deposits; amending Minnesota Statutes 2008, section 356A.06,
 1.7 subdivision 8; Minnesota Statutes 2009 Supplement, sections 69.772, subdivision
 1.8 6; 69.773, subdivision 6; 424A.01, subdivisions 1, 6; 424A.015, by adding a
 1.9 subdivision; 424A.016, subdivisions 4, 7; 424A.02, subdivisions 9, 10; 424A.05,
 1.10 subdivision 3, by adding a subdivision; repealing Minnesota Statutes 2009
 1.11 Supplement, section 424A.001, subdivision 6; Laws 2009, chapter 169, article
 1.12 10, section 32.

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

1.14 Section 1. Minnesota Statutes 2009 Supplement, section 69.772, subdivision 6, is
 1.15 amended to read:

1.16 Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the
 1.17 relief association does not have a surplus over full funding pursuant to subdivision 3,
 1.18 clause (2), subclause (e), ~~or~~ and if the municipality is required to provide financial support
 1.19 to the special fund of the relief association pursuant to this section, the adoption of or
 1.20 any amendment to the articles of incorporation or bylaws of a relief association which
 1.21 increases or otherwise affects the retirement coverage provided by or the service pensions
 1.22 or retirement benefits payable from the special fund of any relief association to which this
 1.23 section applies is not effective until it is ratified by the governing body of the municipality
 1.24 in which the relief association is located and the officers of a relief association shall not
 1.25 seek municipal ratification prior to preparing and certifying an estimate of the expected
 1.26 increase in the accrued liability and annual accruing liability of the relief association
 1.27 attributable to the amendment. If the special fund of the relief association has a

2.1 surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and if the
 2.2 municipality is not required to provide financial support to the special fund of the relief
 2.3 association pursuant to this section, the relief association may adopt or amend its articles
 2.4 of incorporation or bylaws which increase or otherwise affect the retirement coverage
 2.5 provided by or the service pensions or retirement benefits payable from the special fund
 2.6 of the relief association which are effective without municipal ratification so long as this
 2.7 does not cause the amount of the resulting increase in the accrued liability of the special
 2.8 fund of the relief association to exceed 90 percent of the amount of the surplus over full
 2.9 funding reported in the prior year and this does not result in the financial requirements of
 2.10 the special fund of the relief association exceeding the expected amount of the future fire
 2.11 state aid to be received by the relief association as determined by the board of trustees
 2.12 following the preparation of an estimate of the expected increase in the accrued liability
 2.13 and annual accruing liability of the relief association attributable to the change. If a relief
 2.14 association adopts or amends its articles of incorporation or bylaws without municipal
 2.15 ratification pursuant to this subdivision, and, subsequent to the amendment or adoption,
 2.16 the financial requirements of the special fund of the relief association pursuant to this
 2.17 section are such so as to require financial support from the municipality, the provision
 2.18 which was implemented without municipal ratification is no longer effective without
 2.19 municipal ratification and any service pensions or retirement benefits payable after that
 2.20 date may be paid only in accordance with the articles of incorporation or bylaws as
 2.21 amended or adopted with municipal ratification.

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

2.23 Sec. 2. Minnesota Statutes 2009 Supplement, section 69.773, subdivision 6, is
 2.24 amended to read:

2.25 Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the
 2.26 relief association does not have a surplus over full funding pursuant to subdivision 4, ~~or~~
 2.27 and if the municipality is required to provide financial support to the special fund of
 2.28 the relief association pursuant to this section, the adoption of or any amendment to the
 2.29 articles of incorporation or bylaws of a relief association which increases or otherwise
 2.30 affects the retirement coverage provided by or the service pensions or retirement benefits
 2.31 payable from the special fund of any relief association to which this section applies is
 2.32 not effective until it is ratified by the governing body of the municipality in which the
 2.33 relief association is located. If the special fund of the relief association has a surplus over
 2.34 full funding pursuant to subdivision 4, and if the municipality is not required to provide
 2.35 financial support to the special fund of the relief association pursuant to this section,

3.1 the relief association may adopt or amend its articles of incorporation or bylaws which
 3.2 increase or otherwise affect the retirement coverage provided by or the service pensions
 3.3 or retirement benefits payable from the special fund of the relief association which are
 3.4 effective without municipal ratification so long as this does not cause the amount of the
 3.5 resulting increase in the accrued liability of the special fund of the relief association to
 3.6 exceed 90 percent of the amount of the surplus over full funding reported in the prior year
 3.7 and this does not result in the financial requirements of the special fund of the relief
 3.8 association exceeding the expected amount of the future fire state aid to be received by the
 3.9 relief association as determined by the board of trustees following the preparation of an
 3.10 updated actuarial valuation including the proposed change or an estimate of the expected
 3.11 actuarial impact of the proposed change prepared by the actuary of the relief association.
 3.12 If a relief association adopts or amends its articles of incorporation or bylaws without
 3.13 municipal ratification pursuant to this subdivision, and, subsequent to the amendment or
 3.14 adoption, the financial requirements of the special fund of the relief association pursuant
 3.15 to this section are such so as to require financial support from the municipality, the
 3.16 provision which was implemented without municipal ratification is no longer effective
 3.17 without municipal ratification and any service pensions or retirement benefits payable after
 3.18 that date may be paid only in accordance with the articles of incorporation or bylaws as
 3.19 amended or adopted with municipal ratification.

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

3.21 Sec. 3. Minnesota Statutes 2008, section 356A.06, subdivision 8, is amended to read:

3.22 Subd. 8. **Minimum liquidity requirements.** A covered pension plan described by
 3.23 subdivision 6, ~~paragraph (a)~~ or 7, in order to pay benefits as they come due, shall invest
 3.24 a portion of its assets in authorized short-term debt obligations that can be immediately
 3.25 liquidated without accrual of a substantial determinable penalty or loss and that have an
 3.26 average maturity of no more than 90 days. The chief administrative officer of the plan
 3.27 shall determine the minimum liquidity requirement of the plan and shall retain appropriate
 3.28 documentation of that determination for three years from the date of determination.

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

3.30 Sec. 4. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 1, is
 3.31 amended to read:

3.32 Subdivision 1. **Minors.** ~~(a) No volunteer firefighters' relief association associated~~
 3.33 ~~with a municipality or an independent nonprofit firefighting corporation may include as a~~

4.1 ~~relief association member a minor serving as a firefighter, except for members of a youth,~~
 4.2 ~~civic, or educational organization or program who participate with uninterrupted adult~~
 4.3 ~~supervision, as allowed by federal law and by section 181A.04. Such organizations or~~
 4.4 ~~programs include, but are not limited to, Boy Scout Explorer programs or firefighting~~
 4.5 ~~degree programs.~~

4.6 (b) No volunteer firefighters' relief association associated with a municipality or an
 4.7 independent nonprofit firefighting corporation may include as a relief association member
 4.8 a minor serving as a volunteer firefighter.

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

4.10 Sec. 5. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 6, is
 4.11 amended to read:

4.12 Subd. 6. **Return to active firefighting after break in service.** (a) The requirements
 4.13 of this section apply to all breaks in service, except breaks in service mandated by federal
 4.14 or state law.

4.15 (b)(1) If a ~~former active~~ firefighter who has ceased to perform or supervise fire
 4.16 suppression and fire prevention duties for at least 60 days resumes performing active
 4.17 firefighting with the fire department associated with the relief association, if the bylaws of
 4.18 the relief association so permit, the ~~person~~ firefighter may again become an active member
 4.19 of the relief association. A firefighter who returns to active service and membership is
 4.20 subject to the service pension calculation requirements under this section.

4.21 (2) A firefighter who has been granted an approved leave of absence not exceeding
 4.22 one year by the fire department or by the relief association is exempt from the minimum
 4.23 period of resumption service requirement of this section.

4.24 (3) A person who has a break in service not exceeding one year but has not been
 4.25 granted an approved leave of absence and who has not received a service pension or
 4.26 disability benefit may be made exempt from the minimum period of resumption service
 4.27 requirement of this section by the relief association bylaws.

4.28 (4) If the bylaws so provide, a firefighter who returns to active relief association
 4.29 membership under this paragraph may continue to collect a monthly service pension,
 4.30 notwithstanding the service pension eligibility requirements under chapter 424A.

4.31 (b) (c) If a former firefighter who has received a service pension or disability benefit
 4.32 returns to active relief association membership under paragraph (a) (b), the firefighter may
 4.33 qualify for the receipt of a service pension from the relief association for the resumption
 4.34 service period if the firefighter meets a minimum period of resumption service specified in

5.1 ~~the relief association bylaws~~ the service requirements of section 424A.016, subdivision 3,
 5.2 or section 424A.02, subdivision 2.

5.3 (d) If a former firefighter who has not received a service pension or disability benefit
 5.4 returns to active relief association membership under paragraph (b), the firefighter may
 5.5 qualify for the receipt of a service pension from the relief association for the resumption
 5.6 service period if the firefighter meets the minimum period of resumption service specified
 5.7 in the relief association bylaws and the service requirements of section 424A.016,
 5.8 subdivision 3, or section 424A.02, subdivision 2.

5.9 ~~(e)~~ (e) A firefighter who returns to active lump-sum relief association membership
 5.10 and who qualifies for a service pension under paragraph ~~(b)~~ (c) or (d) must have, upon
 5.11 a subsequent cessation of duties, any service pension for the resumption service period
 5.12 calculated as a separate benefit. If a lump-sum service pension had been paid to the
 5.13 firefighter upon the firefighter's previous cessation of duties, a second lump-sum service
 5.14 pension for the resumption service period must be calculated to apply the service pension
 5.15 amount in effect on the date of the firefighter's termination of the resumption service for all
 5.16 years of the resumption service. No firefighter may be paid a service pension twice for the
 5.17 same period of service. If a lump-sum service pension had not been paid to the firefighter
 5.18 upon the firefighter's previous cessation of duties and the firefighter meets the minimum
 5.19 service requirement of section 424A.016, subdivision 3, or section 424A.02, subdivision
 5.20 2, a service pension must be calculated to apply the service pension amount in effect on the
 5.21 date of the firefighter's termination of the resumption service for all years of service credit.

5.22 ~~(d)~~ (f) A firefighter who had not been paid a lump-sum service pension returns
 5.23 to active relief association membership under paragraph ~~(a)~~ (b), who does not qualify
 5.24 for a service pension under paragraph ~~(b)~~ (d), but who does meet the minimum service
 5.25 requirement of section 424A.016, subdivision 3, or section 424A.02, subdivision 2,
 5.26 based on the firefighter's previous years of active service, must have, upon a subsequent
 5.27 cessation of duties, a service pension calculated for the previous years of service based
 5.28 on the service pension amount in effect on the date of the firefighter's termination of the
 5.29 resumption service, or, if the bylaws so provide, based on the service pension amount in
 5.30 effect on the date of the firefighter's previous cessation of duties.

5.31 ~~(e)~~ (g) If a firefighter receiving a monthly benefit service pension returns to active
 5.32 monthly benefit relief association membership under paragraph ~~(a)~~ (b), and if the relief
 5.33 association bylaws do not allow for the firefighter to continue collecting a monthly service
 5.34 pension, any monthly benefit service pension payable to the firefighter is suspended as
 5.35 of the first day of the month next following the date on which the firefighter returns to
 5.36 active membership. If the firefighter was receiving a monthly benefit service pension,

6.1 and qualifies for a service pension under paragraph ~~(b)~~ (c), the firefighter is entitled to
 6.2 an additional monthly benefit service pension upon a subsequent cessation of duties
 6.3 calculated based on the resumption service credit and the service pension accrual amount
 6.4 in effect on the date of the termination of the resumption service. ~~The~~ A suspended initial
 6.5 service pension resumes as of the first of the month next following the termination of the
 6.6 resumption service. If the firefighter was not receiving a monthly benefit service pension
 6.7 and meets the minimum service requirement of section 424A.02, subdivision 2, a service
 6.8 pension must be calculated to apply the service pension amount in effect on the date of the
 6.9 firefighter's termination of the resumption service for all years of service credit.

6.10 ~~(f)~~ (h) A firefighter who was not receiving a monthly benefit service pension returns
 6.11 to active relief association membership under paragraph ~~(a)~~ (b), who does not qualify
 6.12 for a service pension under paragraph ~~(b)~~ (d), but who does meet the minimum service
 6.13 requirement of section 424A.02, subdivision 2, based on the firefighter's previous years
 6.14 of active service, must have, upon a subsequent cessation of duties, a service pension
 6.15 calculated for the previous years of service based on the service pension amount in effect
 6.16 on the date of the firefighter's termination of the resumption service, or, if the bylaws so
 6.17 provide, based on the service pension amount in effect on the date of the firefighter's
 6.18 previous cessation of duties.

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

6.20 Sec. 6. Minnesota Statutes 2009 Supplement, section 424A.015, is amended by adding
 6.21 a subdivision to read:

6.22 Subd. 5. **Minnesota deferred compensation plan transfers.** A relief association
 6.23 may directly transfer on an institution-to-institution basis the eligible member's
 6.24 lump-sum pension amount to the requesting member's account in the Minnesota deferred
 6.25 compensation plan, if:

6.26 (1) the governing articles of incorporation or bylaws so provide;

6.27 (2) the volunteer firefighter participates in the Minnesota deferred compensation
 6.28 plan at the time of retirement; and

6.29 (3) the applicable retiring firefighter requests in writing that the relief association
 6.30 do so.

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

6.32 Sec. 7. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 4, is
 6.33 amended to read:

7.1 Subd. 4. **Individual accounts.** (a) An individual account must be established for
7.2 each firefighter who is a member of the relief association.

7.3 (b) To each individual active member account must be credited an equal share of:

7.4 (1) any amounts of fire state aid received by the relief association;

7.5 (2) any amounts of municipal contributions to the relief association raised from
7.6 levies on real estate or from other available municipal revenue sources exclusive of fire
7.7 state aid; and

7.8 (3) any amounts equal to the share of the assets of the special fund to the credit of:

7.9 (i) any former member who terminated active service with the fire department to
7.10 which the relief association is associated before meeting the minimum service requirement
7.11 provided for in subdivision 2, paragraph (b), and has not returned to active service with
7.12 the fire department for a period no shorter than five years; or

7.13 (ii) any retired member who retired before obtaining a full nonforfeitable interest in
7.14 the amounts credited to the individual member account under subdivision 2, paragraph
7.15 (b), and any applicable provision of the bylaws of the relief association. In addition, any
7.16 investment return on the assets of the special fund must be credited in proportion to the
7.17 share of the assets of the special fund to the credit of each individual active member
7.18 account. Administrative expenses of the relief association payable from the special
7.19 fund may be deducted from individual accounts in a manner specified in the bylaws of
7.20 the relief association.

7.21 (c) If the bylaws so permit and as the bylaws define, the relief association may credit
7.22 any investment return on the assets of the special fund to the accounts of inactive members.

7.23 (d) Amounts to be credited to individual accounts must be allocated uniformly for
7.24 all years of active service and allocations must be made for all years of service, except for
7.25 caps on service credit if so provided in the bylaws of the relief association. The allocation
7.26 method may utilize monthly proration for fractional years of service, as the bylaws or
7.27 articles of incorporation of the relief association so provide. The bylaws or articles of
7.28 incorporation may define a "month," but the definition must require a calendar month to
7.29 have at least 16 days of active service. If the bylaws or articles of incorporation do not
7.30 define a "month," a "month" is a completed calendar month of active service measured
7.31 from the member's date of entry to the same date in the subsequent month.

7.32 ~~(d)~~ (e) At the time of retirement under subdivision 2 and any applicable provision
7.33 of the bylaws of the relief association, a retiring member is entitled to that portion of the
7.34 assets of the special fund to the credit of the member in the individual member account
7.35 which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of

8.1 the relief association based on the number of years of service to the credit of the retiring
8.2 member.

8.3 ~~(e)~~ (f) Annually, the secretary of the relief association shall certify the individual
8.4 account allocations to the state auditor at the same time that the annual financial statement
8.5 or financial report and audit of the relief association, whichever applies, is due under
8.6 section 69.051.

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

8.8 Sec. 8. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 7, is
8.9 amended to read:

8.10 Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief
8.11 association may only pay an ancillary benefit which would constitute an authorized
8.12 disbursement as specified in section 424A.05. The ancillary benefit for active members
8.13 must equal the vested ~~or~~ and nonvested amount of the individual account of the member.

8.14 (b) For deferred members, the ancillary benefit must equal the vested amount of
8.15 the individual account of the member. For the recipient of installment payments of a
8.16 service pension, the ancillary benefit must equal the remaining balance in the individual
8.17 account of the recipient.

8.18 (c)(1) If a survivor or death benefit is payable under the articles of incorporation or
8.19 bylaws, the benefit must be paid:

8.20 (i) as a survivor benefit to the surviving spouse of the deceased firefighter;

8.21 (ii) as a survivor benefit to the surviving child or children of the deceased firefighter
8.22 if no surviving spouse;

8.23 (iii) as a survivor benefit to a designated beneficiary of the deceased firefighter if no
8.24 surviving spouse or surviving child or children; or

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

8.27 (2) If there is no surviving child or are no surviving children, the surviving spouse
8.28 may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

8.29 (d) For purposes of this section, for a defined contribution volunteer fire relief
8.30 association, a trust created under chapter 501B may be a designated beneficiary. If a
8.31 trust payable to the surviving child or children organized under chapter 501B has been
8.32 established as authorized by this section and there is no surviving spouse, the survivor
8.33 benefit may be paid to the trust, notwithstanding the requirements of this section.

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

9.1 Sec. 9. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 9, is
 9.2 amended to read:

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

9.8 (1) with respect to a defined benefit relief association in which governing bylaws
 9.9 provide for a lump-sum service pension to a retiring member, no ancillary benefit may
 9.10 be paid to any former member or paid to any person on behalf of any former member
 9.11 after the former member (i) terminates active service with the fire department and active
 9.12 membership in the relief association; and (ii) commences receipt of a service pension as
 9.13 authorized under this section; and

9.14 (2) with respect to any defined benefit relief association, no ancillary benefit paid or
 9.15 payable to any member, to any former member, or to any person on behalf of any member
 9.16 or former member, may exceed in amount the total earned service pension of the member
 9.17 or former member. The total earned service pension must be calculated by multiplying
 9.18 the service pension amount specified in the bylaws of the relief association at the time of
 9.19 death or disability, whichever applies, by the years of service credited to the member or
 9.20 former member. The years of service must be determined as of (i) the date the member or
 9.21 former member became entitled to the ancillary benefit; or (ii) the date the member or
 9.22 former member died entitling a survivor or the estate of the member or former member to
 9.23 an ancillary benefit. The ancillary benefit must be calculated without regard to whether the
 9.24 member had attained the minimum amount of service and membership credit specified in
 9.25 the governing bylaws. For active members, the amount of a permanent disability benefit
 9.26 or a survivor benefit must be equal to the member's total earned service pension except
 9.27 that the bylaws of a defined benefit relief association may provide for the payment of a
 9.28 survivor benefit in an amount not to exceed five times the yearly service pension amount
 9.29 specified in the bylaws on behalf of any member who dies before having performed five
 9.30 years of active service in the fire department with which the relief association is affiliated.

9.31 (3)(i) If a lump sum survivor or death benefit is payable under the articles of
 9.32 incorporation or bylaws, the benefit must be paid:

9.33 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

9.34 (B) as a survivor benefit to the surviving child or children of the deceased firefighter
 9.35 if no surviving spouse;

10.1 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no
 10.2 surviving spouse or surviving child or children; or

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

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

10.7 (4)(i) If a monthly benefit survivor or death benefit is payable under the articles of
 10.8 incorporation or bylaws, the benefit must be paid:

10.9 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

10.10 (B) as a survivor benefit to the surviving child or children of the deceased firefighter
 10.11 if no surviving spouse;

10.12 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no
 10.13 surviving spouse or surviving child or children; or

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

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

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

10.21 (5) For purposes of this section, for a monthly benefit volunteer fire relief association
 10.22 or for a combination lump-sum and monthly benefit volunteer fire relief association where
 10.23 a monthly benefit service pension has been elected by or a monthly benefit is payable with
 10.24 respect to a firefighter, a designated beneficiary must be a natural person. For purposes
 10.25 of this section, for a lump-sum volunteer fire relief association or for a combination
 10.26 lump-sum and monthly benefit volunteer fire relief association where a lump-sum service
 10.27 pension has been elected by or a lump-sum benefit is payable with respect to a firefighter,
 10.28 a trust created under chapter 501B may be a designated beneficiary. If a trust is payable
 10.29 to the surviving child or children organized under chapter 501B as authorized by this
 10.30 section and there is no surviving spouse, the survivor benefit may be paid to the trust,
 10.31 notwithstanding a requirement of this section to the contrary.

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

10.33 Sec. 10. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 10,
 10.34 is amended to read:

11.1 Subd. 10. **Local approval of bylaw amendments; filing requirements.** (a) Each
 11.2 defined benefit relief association to which this section applies must file a revised copy
 11.3 of its governing bylaws with the state auditor upon the adoption of any amendment to
 11.4 its governing bylaws by the relief association or upon the approval of any amendment
 11.5 to its governing bylaws granted by the governing body of each municipality served by
 11.6 the fire department to which the relief association is directly associated. Failure of the
 11.7 relief association to file a copy of the bylaws or any bylaw amendments with the state
 11.8 auditor disqualifies the municipality from the distribution of any future fire state aid until
 11.9 this filing requirement has been completed.

11.10 (b) If the special fund of the relief association does not have a surplus over full
 11.11 funding under section 69.772, subdivision 3, clause (2), subclause (e), or 69.773,
 11.12 subdivision 4, and if the municipality is required to provide financial support to the special
 11.13 fund of the relief association under section 69.772 or 69.773, no bylaw amendment which
 11.14 would affect the amount of, the manner of payment of, or the conditions for qualification
 11.15 for service pensions or ancillary benefits or disbursements other than administrative
 11.16 expenses authorized under section 69.80 payable from the special fund of the relief
 11.17 association is effective until it has been ratified ~~by the governing body or bodies of the~~
 11.18 ~~appropriate municipalities~~ as required under section 69.772, subdivision 6, or 69.773,
 11.19 subdivision 6. If the special fund of the relief association has a surplus over full funding
 11.20 under section 69.772, subdivision 3, or 69.773, subdivision 4, and if the municipality is
 11.21 not required to provide financial support to the special fund under this section, the relief
 11.22 association may adopt or amend without municipal ratification its articles of incorporation
 11.23 or bylaws which increase or otherwise affect the service pensions or ancillary benefits
 11.24 payable from the special fund so long as the changes do not cause the amount of the
 11.25 resulting increase in the accrued liability of the special fund to exceed 90 percent of the
 11.26 amount of the surplus over full funding reported in the prior year and the changes do not
 11.27 result in the financial requirements of the special fund exceeding the expected amount
 11.28 of the subsequent calendar year's fire state aid to be received by the relief association if
 11.29 authorized under section 69.772, subdivision 6, or 69.773, subdivision 6.

11.30 (c) If the relief association pays only a lump-sum pension, the financial requirements
 11.31 are to be determined by the board of trustees following the preparation of an estimate
 11.32 of the expected increase in the accrued liability and annual accruing liability of the
 11.33 relief association attributable to the change. If the relief association pays a monthly
 11.34 benefit service pension, the financial requirements are to be determined by the board of
 11.35 trustees following either an updated actuarial valuation including the proposed change
 11.36 or an estimate of the expected actuarial impact of the proposed change prepared by the

12.1 actuary of the relief association. If a relief association adopts or amends its articles
 12.2 of incorporation or bylaws without municipal ratification under this subdivision, and,
 12.3 subsequent to the amendment or adoption, the financial requirements of the special fund
 12.4 under this section are such so as to require financial support from the municipality, the
 12.5 provision which was implemented without municipal ratification is no longer effective
 12.6 without municipal ratification, and any service pensions or ancillary benefits payable after
 12.7 that date must be paid only in accordance with the articles of incorporation or bylaws as
 12.8 amended or adopted with municipal ratification.

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

12.10 Sec. 11. Minnesota Statutes 2009 Supplement, section 424A.05, subdivision 3, is
 12.11 amended to read:

12.12 Subd. 3. **Authorized disbursements from the special fund.** ~~(a)~~ Disbursements
 12.13 from the special fund may not be made for any purpose other than one of the following:

12.14 (1) for the payment of service pensions to retired members of the relief association if
 12.15 authorized and paid under law and the bylaws governing the relief association;

12.16 (2) for the purchase of an annuity for the applicable person under section 424A.015,
 12.17 subdivision 3, for the transfer of service pension or benefit amounts to the applicable
 12.18 person's individual retirement account under section 424A.015, subdivision 4, or to the
 12.19 applicable person's account in the Minnesota deferred compensation plan under section
 12.20 424A.015, subdivision 5;

12.21 ~~(2)~~ (3) for the payment of temporary or permanent disability benefits to disabled
 12.22 members of the relief association if authorized and paid under law and specified in amount
 12.23 in the bylaws governing the relief association;

12.24 ~~(3)~~ (4) for the payment of survivor benefits ~~to surviving spouses and surviving~~
 12.25 ~~children, or if none, to designated beneficiaries, of deceased members of the relief~~
 12.26 ~~association, and if no survivors and if no designated beneficiary, or~~ for the payment of a
 12.27 death benefit to the estate of the deceased active or deferred firefighter, if authorized ~~by~~
 12.28 and paid under law and specified in amount in the bylaws governing the relief association;

12.29 ~~(4)~~ (5) for the payment of the fees, dues and assessments to the Minnesota State
 12.30 Fire Department Association and to the Minnesota Area Relief Association Coalition in
 12.31 order to entitle relief association members to membership in and the benefits of these
 12.32 associations or organizations;

12.33 ~~(5)~~ (6) for the payment of insurance premiums to the state Volunteer Firefighters
 12.34 Benefit Association, or an insurance company licensed by the state of Minnesota offering

13.1 casualty insurance, in order to entitle relief association members to membership in and the
 13.2 benefits of the association or organization; and

13.3 ~~(6) (7)~~ for the payment of administrative expenses of the relief association as
 13.4 authorized under section 69.80.

13.5 ~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association~~
 13.6 ~~or for a combination lump-sum and monthly benefit volunteer fire relief association where~~
 13.7 ~~a monthly benefit service pension has been elected by or a monthly benefit is payable with~~
 13.8 ~~respect to a firefighter, a designated beneficiary must be a natural person. For purposes of~~
 13.9 ~~this chapter, for a defined contribution volunteer fire relief association, for a lump-sum~~
 13.10 ~~volunteer fire relief association, or for a combination lump-sum and monthly benefit~~
 13.11 ~~volunteer fire relief association where a lump-sum service pension has been elected by~~
 13.12 ~~or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary~~
 13.13 ~~may be a trust created under chapter 501B.~~

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

13.15 Sec. 12. Minnesota Statutes 2009 Supplement, section 424A.05, is amended by adding
 13.16 a subdivision to read:

13.17 **Subd. 3a. Corrections of erroneous special fund deposits.** Upon notification
 13.18 of funds deposited in error in the special fund and after presentation of evidence that
 13.19 the error occurred in good faith, the state auditor may require the relief association to
 13.20 provide a written legal opinion concluding that the transfer of funds from the special
 13.21 fund is consistent with federal and state law. Taking into consideration the evidence of
 13.22 good faith presented and the legal opinion, if any, provided, the state auditor may order
 13.23 the transfer from the special fund to the appropriate fund or account an amount equal
 13.24 to the funds deposited in error.

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

13.26 Sec. 13. **REPEALER.**

13.27 (a) Minnesota Statutes 2009 Supplement, section 424A.001, subdivision 6, is
 13.28 repealed.

13.29 (b) Laws 2009, chapter 169, article 10, section 32, is repealed.

13.30 **EFFECTIVE DATE.** Paragraph (a) of this section is effective the day following
 13.31 final enactment. Paragraph (b) of this section is effective retroactively from July 1, 2009.

APPENDIX
Repealed Minnesota Statutes: 10-5059

424A.001 DEFINITIONS.

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the bylaws governing a relief association to which this chapter applies, "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.

APPENDIX
Repealed Minnesota Session Laws: 10-5059

Laws 2009, chapter 169, article 10, section 32

Sec. 32. Minnesota Statutes 2008, section 424A.02, subdivision 9b, is amended to read:

Subd. 9b. **Repayment of service pension in certain instances.** If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person must repay to the defined benefit relief association any previously received service pension.

EFFECTIVE DATE. This section is effective July 1, 2009.