



H.F. 2005
(Kahn)

S.F. 1604
(Dibble)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Former Minneapolis Police Relief Association
Relevant Provisions of Law: Minnesota Statutes 2011 Supp., Sec. 353.668, Subd. 4
General Nature of Proposal: Authorization of Successor Health Insurance Account Custodian
Date of Summary: January 30, 2012

Specific Proposed Changes

Allows for the substitution of one financial institution for another financial institution as the custodian of the former Minneapolis Police Relief Association health insurance account which, upon the relief association's consolidation into PERA-P&F, contains a three-year period advance funding of administrative expenses.

Policy Issues Raised by the Proposed Legislation

The proposed legislation resolves an administrative problem and does not raise any pension or related public policy issues.

Potential Amendments

No staff amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LAM*
RE: H.F. 2005 (Kahn); S.F. 1604 (Dibble): Former Minneapolis Police Relief Association; Authorization of Successor Health Insurance Account Custodian
DATE: January 30, 2012

Summary of H.F. 2005 (Kahn); S.F. 1604 (Dibble)

H.F. 2005 (Kahn); S.F. 1604 (Dibble) amends Minnesota Statutes, Section 353.668, Subdivision 4, a portion of the 2011 Minneapolis Police Relief Association consolidation legislation, by permitting the health insurance account of the former Minneapolis Police Relief Association to be transferred from the financial institution that was the custodian of the account on the consolidation effective date to a successor financial institution under an agreement dated December 30, 2011.

Background Information Relevant to the Proposed Legislation

The 2011 Special Session approved a total consolidation of the Minneapolis Police Relief Association into the Public Employees Police and Fire Retirement Plan (PERA-P&F) if approved by the board of trustees of the Minneapolis Police Relief Association, the membership of the Minneapolis Police Relief Association, the Minneapolis City Council, and the Public Employees Retirement Association (PERA) board of trustees. Similar legislation was approved for the Minneapolis Firefighters Relief Association and approvals of each consolidation were preconditioned on the approval of the consolidation of the other relief association.

The 2011 consolidation legislation included a deposit of three years of prepayment of the estimated administrative expenses of the former Minneapolis Police Relief Association health insurance account with the financial institution that was retained by the relief association before consolidation. The former Minneapolis Police Relief Association financial institution, Wells Fargo, declined to continue the custodian and fiduciary responsibilities with respect to the health insurance account after June 30, 2012, requiring a change in custodians. The former Minneapolis Police Relief Association reached an agreement with the Union Bank and Trust, the Minneapolis Firefighters Relief Association health insurance account custodian, to assume the custodian and fiduciary responsibilities for the Minneapolis Police Relief Association health insurance account, to be implemented when authorization legislation is enacted.

Discussion and Analysis

H.F. 2005 (Kahn); S.F. 1604 (Dibble) allows for the substitution of one financial institution for another financial institution as the custodian of the former Minneapolis Police Relief Association health insurance account which, upon the relief association's consolidation into PERA-P&F, contains a three-year period advance funding of administrative expenses. The change is necessitated by the indication by the pre-consolidation custodial financial institution retained by the former Minneapolis Police Relief Association that it was unwilling to render services in that capacity after June 30, 2012.

The proposed legislation resolves an administrative problem that was not identified when the Minneapolis Police Relief Association consolidation was considered by the Legislature during the 2011 Special Session and that does not raise any pension or related public policy issues.



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December 30, 2011

Representative Morrie Lanning, Chair
Legislative Commission on Pensions and Retirement
Room 379 State Office Building
St. Paul, MN 55155

Senator Julie Rosen, Vice Chair
Legislative Commission on Pensions and Retirement
Room 322 State Capitol
St. Paul, MN 55155

Re: Minneapolis Police Pension Consolidation Law of 2011

Dear Chairman Lanning and Senator Rosen:

Enclosed you will find a copy of the Memorandum of Understanding (the "Memorandum") between Wells Fargo, N.A. and the Minneapolis Police Relief Association (MPRA) dealing with the MPRA Health Insurance Account. During the 2011 1st Special Session, the Legislature enacted the comprehensive pension legislation. Included in that legislation was a provision to allow the MPRA to consolidate with the Public Employees Retirement Association (PERA.)

As this consolidation legislation was prepared, state pension officials indicated they were not able to take over the Health Insurance Accounts established by both the MPRA and the Minneapolis Firefighters' Relief Association (MFRA.) The legislation called for the custodian banks of those funds, Wells Fargo in the case of the MPRA and Union Bank and Trust (UBT) in the case of the MFRA, to continue to act as the custodians and fiduciaries of these accounts. The MFRA was able to successfully reach an agreement with UBT to assume the fiduciary responsibilities and custodial work for their Health Insurance Account for its members. However, negotiations between the MPRA and Wells Fargo were not as successful.

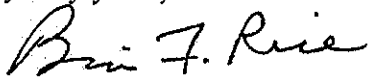
The enclosed Memorandum between Wells Fargo and the MPRA provides that Wells Fargo will hold the account until June 30, 2012 with the understanding that legislation will be sought in the 2012 legislative session to allow UBT to then assume those accounts. The MPRA has reached an agreement with UBT to accept the MPRA account after June 30, 2012 provided requisite legislation is enacted early next year. This, however, will necessitate legislative action in 2012 to allow UBT to assume the obligations under the Memorandum with Wells Fargo.

In addition, I have enclosed the Agreement between UBT and the MPRA that provide for the transition of the account from WFC to UBT.

I am writing this letter to request your support and the support of the Pension Commission of this matter. The MPRA would appreciate your consideration. I am copying Larry Martin, Executive Director of the Pension Commission, as well as Rep. Phyllis Kahn and Senator Scott Dibble, who are Minneapolis members of the Pension Commission. We will be asking them to author legislation to accomplish this purpose. I would also like Mr. Martin's suggestions on appropriate legislation.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Brian F. Rice

Encls.

cc: Rep. Phyllis Kahn
Senator Scott Dibble
Larry Martin, LCPR Executive Director (w/ encls.)
Barb Johnson, President, Minneapolis City Council
Larry Ward, MPRA President
Renee Tessier, MPRA Executive Director
Mike Gieffer, Union Bank & Trust
Kevin Briggs, Union Bank & Trust
Darcy Kent, Wells Fargo Bank

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made by Wells Fargo Bank, N.A. (formerly Wells Fargo Bank Minnesota, N.A.) ("Wells Fargo" or "Custodian") and the Board of Directors of the Minneapolis Police Relief Association ("MPRA") this 31st day of December 2011.

WHEREAS, Wells Fargo acts as the custodian of certain funds on behalf of the MPRA pursuant to a custody agreement dated as of July 1, 1999 and amended on or about September 5, 2001 ("Custody Agreement"); and

WHEREAS, one of the accounts held in custody is a health insurance escrow account (the "Health Insurance Account");

WHEREAS, as a result of Laws 2011, First Special Session, Chapter 8, Article 7 (the "MPRA Bill"), the MPRA shall cease to exist as of December 30, 2011; and

WHEREAS, the MPRA Bill Laws 2011, First Special Session, Chapter 8, Article 7, Section 14, subd. 4, further provides that the assets held in the Health Insurance Account are to remain deposited with the Custodian of the Health Insurance Account, subject to further terms and conditions not contemplated by the Custody Agreement; and

WHEREAS, under the circumstances, Wells Fargo desires to no longer serve as Custodian of the Health Insurance Account; and

WHEREAS, section 10 of the Custody Agreement provides that either party can terminate the Agreement by giving sixty (60) days' written notice to the other; and

WHEREAS, the MPRA has entered into an agreement with Union Bank & Trust (UBT) to serve as successor custodian or trustee, so long as the MPRA Bill is revised to so permit it to do so; and WHEREAS, the MPRA has advised the Legislative Commission on Pensions and Retirement pursuant to the provision of the MPRA Bill of the need to revise the legislation to accommodate this change in successor custodian and trustee, which will in no event be longer than June 30, 2012 ("Revision Date"); and

WHEREAS, Wells Fargo is willing to continue to serve as Custodian until the Revision Date; and

WHEREAS, the parties hereto desire to set forth their mutual understandings in this Memorandum of Understanding;

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the parties acknowledge and agree as follows:

1. The Minneapolis Police Fraternal Association ("MPFA") as successor to certain corporate functions of the MPRA shall cause the MPRA Bill (the "Revised Legislation") to be revised no later than the Revision Date.

2. The Revised Legislation shall cause a successor custodian or trustee to be appointed effective as of or as soon as administratively feasible after the Revision Date.

3. Wells Fargo shall continue to serve as Custodian of the Health Insurance Account until the Revision Date, but in no event beyond June 20, 2012 regardless whether the MPRA Bill is revised. During such period of time, Wells Fargo shall continue to offer the investment options currently in effect in the Health Insurance Account and shall continue to make distributions to active participants as previously directed by the MPRA. The parties hereto agree that this provision constitutes sixty (60) days' written notice of termination as required by section 10 of the Custody Agreement.

4. The MPRA will transfer \$72,750 to Wells Fargo under the terms of the MPRA bill to fulfill its obligation to prepay three year administrative expenses. In consideration of its services herein, Wells Fargo shall charge annual administrative fees of \$25,000 per year, prorated for the period of time during which it continues to serve as Custodian, against the Health Insurance Account, and shall transfer and deliver any remaining assets, including any funds contributed for the purpose of paying administrative fees, to the successor custodian or trustee designated by the Revised Legislation or as directed by a court of competent jurisdiction under paragraph 5.

5. If a successor custodian or trustee is not appointed by June 30, 2012, Wells Fargo may petition a court of competent jurisdiction to name a successor custodian or trustee and may charge its related costs, fees and expenses to the Health Insurance Account.

6. To the extent relevant to and not inconsistent herewith, the provisions of the Custody Agreement, including but not limited to amendment and governing law, shall apply to this Memorandum of Understanding.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by their duly authorized individuals, effective as of the date set forth below, or the latest of them.

WELLS FARGO BANK, N.A. (FORMERLY WELLS FARGO BANK MINNESOTA, N.A.)

By: _____

Title: _____

Date: _____

THE MINNEAPOLIS POLICE RELIEF ASSOCIATION

By: Bene E. Jessor
Title: Executive Director
Date: December 27, 2011

By: Lawrence J. Ward
Title: President
Date: 12/27/11

AGREEMENT

Whereas, The Minneapolis Police Relief Association's Special Fund ("MPRA") will be consolidated with the Public Employees Retirement Association's Police & Fire Fund as of December 30, 2011 pursuant to Laws of Minnesota Special Session 2011, Chapter 8, Article 7 (the 2011 Legislation"). Under Article 7, section 14, subdivision 7 of the 2011 Legislation all assets of the MPRA with the exception of the health insurance account must be transferred to the State Board of Investment;

Whereas, each individual member of the MPRA with assets in the account is a beneficial owner of the assets in the MPRA's health insurance account and has had his member contributions deposited in the account since completing 25 years in the MPRA's pension plan;

Whereas, certain members of the MPRA are not currently retired from the Minneapolis Police Department;

Whereas, the 2011 Legislation requires that the amounts in the health insurance account remain deposited with Wells Fargo Bank, NA ("Wells Fargo") must act as the custodian of the account;

Whereas, the 2011 Legislation also requires Wells Fargo to perform all trustee and fiduciary duties with respect to the account;

Whereas, Wells Fargo does not want to continue beyond June 30, 2012 as the custodian of the account but has agreed to act as custodian until June 30, 2012 provided that the 2012 Legislature amend the 2011 Legislation to allow Union Bank and Trust, Co. ("UBT") to act as its successor to this account;

Whereas the MPRA Board of Directors has adopted rules for the operation of this account as set forth in attachment A and has by Board action appointed UBT to act as custodian, trustee and fiduciary of this account as set forth in the MPRA Board Resolution in Attachment B;

Whereas, the MPRA Board has directed that each individual member with assets in the health insurance account be apportioned his respective share of those assets to become the lawful owner of those assets; and

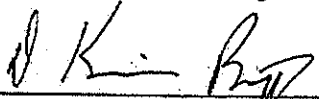
Whereas, the MPRA Board has determined that each member be allowed to select one of four investment vehicles as set forth in Attachment C that the Board deems to be a safe and prudent investment for these type of assets.

Now in consideration of the preceding the parties to this agreement hereby agree as follows:

1. UBT will act as custodian and fiduciary of these individual accounts provided that necessary legislation is enacted in the 2012 legislative session to permit it to act in that capacity;
2. If legislation is enacted in 2012, UBT will assume the accounts and administer them in accordance with the agreements and attachments to this agreement;

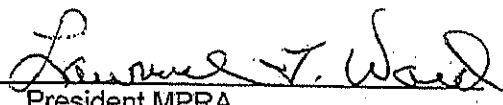
3. UBT will receive a onetime fee of \$350 for setting up each of these accounts and will receive an annual fee of \$350 per account per year with an increase of 5 percent beginning January 1, 2015;
4. Payments for the fees referenced in paragraph 3 have been prepaid to Wells Fargo for the period of January 1, 2012 through December 31, 2014. Any fees unearned by Wells Fargo will transfer to UBT upon UBT assuming custody and fiduciary duties for these accounts. UBT will receive a minimum of \$58,800.00 (if 48 members are transferred on June 30, 2012, additional per diem if prior to June 30, 2012). Any fees unearned by UBT by December 31, 2014 will be remitted to the Public Employees Retirement Association;
5. Individual members will be responsible for fees related to this account after January 1, 2015.


The provisions of this Agreement will be governed by Minnesota law.



Union Bank & Trust Company

12-30-2011
Date



President MPRA


Executive Director MPRA

12-30-2011
Date

Attachment A -- Rules of Operation

The rules of operation concerning the Health Insurance Escrow accounts of MPRA members will be as follows:

There will be no contributions added to a member's account after December 31st 2011.

Members may choose an investment option and a distribution of funds from their account beginning on their retirement date or on July 1, 2012 and annually thereafter on January 1st.

There is a retirement requirement for a member to receive a distribution from their account. The member must provide Union Bank & Trust with official written documentation of their retirement date before they are allowed to receive a distribution from their account. This documentation would include acknowledgement from either the MPD or PERA P&F.

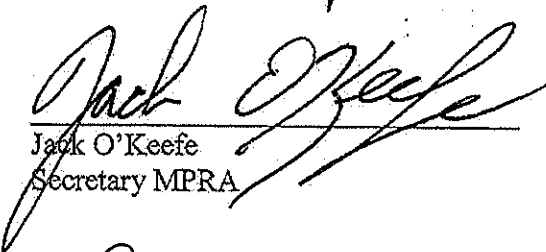
A distribution from the member account should be in the form of a monthly deposit to the participant's checking or savings account via electronic deposit. Only in the case of the death of the participating active, retired, or surviving spouse shall a lump sum distribution be paid to the legal representative of the estate.

The participant shall choose the amount of distribution and shall do so only on an annual basis on January of each year. The current maximum monthly distribution permitted is \$4,200. The maximum amount will be increased annually based on the Consumer Price Index (CPI) published in November of each year beginning July 1, 2012 and annually thereafter on January 1st of each year.

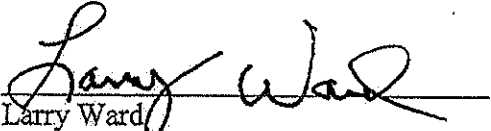
Attachment B – Board Action

RESOLVED, that:

1. The Board of Directors of the MPRA has decided that Union Bank and Trust (**The Bank**) will be the Custodian and Fiduciary of the MPRA member's Health Escrow Account provided that legislation is enacted in the 2012 Legislative Session and that on a quarterly basis, Union Bank and Trust will provide the account holder with statements including a breakdown of their vested balance reflecting their beginning balance, earnings and ending balance.
2. The Consumer Price Index (CPI) shall be the mechanism used to determine the maximum monthly withdrawal allowed from a member's account.
3. Upon retirement, or other qualifying occurrence, a member may make application to the bank, requesting a distribution from the member's account and said distribution shall be delivered to the member by the bank. If a member chooses a monthly distribution amount, the amount of this distribution shall be limited to change on an annual basis. The member will receive a 1099R from the bank annually and must pay the tax liability on this income per applicable State and Federal tax laws. The payments shall continue until an individual's account is exhausted.
4. When a participating active, retired or surviving spouse member is deceased, the legal representative of the estate will receive a lump sum payment equal to the balance of the individual's account.
5. All funds in the member's accounts will be invested in one of four (4) investment options chosen by the member on an annual basis.



Jack O'Keefe
Secretary MPRA



Larry Ward
President MPRA

Attachment C – Investment Policy

The investment policy for the Health Insurance Escrow Accounts will be as follows if legislation is approved that permits Union Bank & Trust to act as custodian and fiduciary of the accounts:

The members will have four (4) options to choose from as an investment vehicle for their account. Only one (1) of the four (4) vehicles can be chosen by a member and that choice of vehicles will be limited to an annual election each year. The four (4) fund options to be offered for the Health Insurance Escrow are:

Federated Treasury Obligations Fund (Ticker TOSXX)
Vanguard Balanced Index Fund (Ticker VBINX)
Vanguard Intermediate Bond Index Fund (Ticker VBIX)
Vanguard Inflation-Protected Securities Fund (Ticker VIPSX)

In the absence of an investment fund election from a member, the default fund will be the least volatile investment option, Federated Treasury Obligations Fund, until a completed election form is received from the member by Union Bank and Trust.

There will be no contributions added to a member's account after December 31st 2011.

Union Bank & Trust will track the performance of all investment options provided and if any of those options is performing on a less than normally expected basis it will be the responsibility of Union Bank & Trust to drop that option from the list of the four (4) investment vehicles and add an investment option that is performing on a better basis, and is similar to the one dropped by Union Bank & Trust.

Union Bank & Trust will be responsible for informing the members using the dropped investment vehicle, in writing, as to Union Bank & Trust's decision to replace this vehicle and why they are doing so, as well as why they have chosen the newly added investment vehicle and Union Bank & Trust will provide information regarding the newly added investment option.

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2005

01/30/2012 Authored by Kahn

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to retirement; former Minneapolis Police Relief Association; providing
1.3 for successor custodian for transferred health insurance account assets; amending
1.4 Minnesota Statutes 2011 Supplement, section 353.668, subdivision 4.

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

1.6 Section 1. Minnesota Statutes 2011 Supplement, section 353.668, subdivision 4,
1.7 is amended to read:

1.8 Subd. 4. **Transfer of assets; transfer of title to assets.** (a) On the effective date of
1.9 the consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19,
1.10 the chief administrative officer of the Minneapolis Police Relief Association shall transfer
1.11 the entire assets of the special fund of the Minneapolis Police Relief Association other
1.12 than the health insurance account to the public employees police and fire retirement fund
1.13 at market value. Unless ineligible or inappropriate, the transfer must be in the form of
1.14 investment securities and must include any accounts receivable that are determined by the
1.15 State Board of Investment as being capable of being collected. An amount, in cash, must
1.16 be transferred by the city of Minneapolis equal to the market value recognized by the relief
1.17 association of investment securities that are determined by the executive director of the
1.18 State Board of Investment not to be in compliance with the requirements and limitations
1.19 set forth in sections 11A.09, 11A.14, 11A.23, and 11A.24 or not to be appropriate for
1.20 retention in light of the established investment objectives of the State Board of Investment
1.21 or of accounts receivable determined by the executive director of the State Board of
1.22 Investment as being incapable of being collected. Legal and beneficial title to assets that
1.23 are determined noncompliant or inappropriate securities or that are uncollectible accounts
1.24 receivable are transferred to the city of Minneapolis on the effective date of consolidation

2.1 under Laws 2011, First Special Session chapter 8, article 7, section 19. Any accounts
2.2 payable on the effective date of consolidation under Laws 2011, First Special Session
2.3 chapter 8, article 7, section 19, are an obligation of the public employees police and fire
2.4 retirement fund and reduce the asset value for purposes of subdivision 6. The transferred
2.5 assets must be deposited in the public employees police and fire retirement fund. The
2.6 amount of the health insurance account as of the date of the consolidation must remain
2.7 deposited in the financial institution retained by the former Minneapolis Police Relief
2.8 Association on May 1, 2011, and that financial institution must act as the custodian of the
2.9 account. The health insurance account may be transferred from the financial institution
2.10 that holds the account to a successor financial institution on June 30, 2012, under the
2.11 requirements of this subdivision and the terms of an agreement between the Minneapolis
2.12 Police Relief Association and the successor financial institution dated December 30,
2.13 2011, that provides for the transfer. The financial institution shall perform all trustee and
2.14 fiduciary duties with respect to the account as a condition to the retention of the account.
2.15 The executive director of the Minneapolis Police Relief Association, prior to the effective
2.16 date of consolidation, shall estimate three calendar years of the administrative expenses
2.17 related to the operation of the account and shall prepay those expenses from the account to
2.18 the financial institution prior to the effective date of consolidation. After the three-year
2.19 prepayment period, the beneficiaries of the account are responsible for the payment of the
2.20 administrative expenses related to the operation of the account.

2.21 (b) Upon the transfer of assets to the State Board of Investment under paragraph
2.22 (a), legal title to those transferred assets vests with the State Board of Investment on
2.23 behalf of the public employees police and fire retirement plan, and beneficial title to the
2.24 transferred assets remains with the former membership of the former Minneapolis Police
2.25 Relief Association.

2.26 (c) The public employees police and fire retirement plan and fund is the successor in
2.27 interest to all claims for or against the Minneapolis Police Relief Association. The public
2.28 employees police and fire retirement plan and fund is not liable for any claim against the
2.29 Minneapolis Police Relief Association, its governing board, or its administrative staff
2.30 acting in a fiduciary capacity, under chapter 356A or common law, which is founded upon
2.31 a claim of a breach of fiduciary duty if the act or acts constituting the claimed breach were
2.32 not undertaken in good faith. The public employees police and fire retirement plan may
2.33 assert any applicable defense to any claim in any judicial or administrative proceeding
2.34 that the Minneapolis Police Relief Association, its board, or its administrative staff would
2.35 otherwise have been entitled to assert, and the public employees police and fire retirement
2.36 plan may assert any applicable defense that it has in its capacity as a statewide agency.

3.1 (d) The Public Employees Retirement Association shall indemnify any former
3.2 fiduciary of the Minneapolis Police Relief Association consistent with the provisions of
3.3 section 356A.11. The indemnification may be effected by the purchase by the Public
3.4 Employees Retirement Association of reasonable fiduciary liability tail insurance for the
3.5 officers and directors of the former Minneapolis Police Relief Association. Consistent
3.6 with section 69.80, the relief association may purchase reasonable fiduciary liability tail
3.7 insurance for its officers and directors prior to the effective date of consolidation under
3.8 Laws 2011, First Special Session chapter 8, article 7, section 19.

3.9 (e) Office equipment and other physical assets of the special fund of the Minneapolis
3.10 Police Relief Association that are not needed by the Public Employees Retirement
3.11 Association may be sold by the special fund of the Minneapolis Police Relief Association
3.12 to the general fund of the Minneapolis Police Relief Association or to any successor
3.13 fraternal organization of the Minneapolis Police Relief Association at fair market value,
3.14 with the proceeds of that sale deposited in the public employees police and fire retirement
3.15 fund and included in the transferred asset value under subdivision 6.

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