



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Rachel Barth, Deputy Director
RE: HFxxxx; SFxxxx (Revisor # 16-5720): Implementing the recommendations of the State Auditor's Fire Relief Association Working Group
DATE: February 19, 2016

Summary of the State Auditor's Fire Relief Association Working Group Bill

HFxxxx; SFxxxx (Revisor #16-5720) implements the bill package approved by the State Auditor's Fire Relief Association Working Group. The proposed legislation is intended to address the various issues identified by the Working Group that affect Minnesota volunteer firefighter relief associations (VFRAs).

The main components of the bill are as follows:

1. Certification of Service Credit. Section 1 adds a new statute, Minn. Stat. § 424A.003, requiring all fire department fire chiefs to annually certify each volunteer firefighter's service credit for the previous year to the affiliated relief association's board of trustees and the municipal clerk. The fire chief must also provide service credit notification to each volunteer firefighter 60 days before certification and an opportunity for the member to challenge the fire chief's service credit determination. The fire department has the authority to determine the specifics of the review process. This new requirement is similar to Minn. Stat. § 353G.07 in the Statewide Volunteer Firefighter Retirement Plan administered by the Public Employees Retirement Association (PERA) that annually requires fire chiefs to certify each firefighter's service credit to the PERA executive director and provides a review process if a firefighter wishes to challenge the fire chief's determination.

This requirement is intended to solve problems that arise when relief association trustees do not receive service credit information from the fire department. A volunteer firefighter service pension is based on the amount of service a member completes each year. Fire departments establish the minimum service requirements to earn service credit, calculate the service credit for each firefighter, and determine whether the firefighter is in good standing. Relief associations award service credit for service pension purposes based on the fire departments' service records. If a relief association does not receive these records, service pensions could be inaccurately calculated. Certification to the municipal clerk provides notice of the accrued service credit to the entity that funds the relief association service pension.

Notification provides a firefighter with the opportunity to address a potential error as soon as possible, which will help ensure the relief association has accurate information on service pension obligations. Providing notification also places some responsibility on the firefighter to confirm that the recorded service credit is accurate and help prevent situations where a firefighter preparing to retire disputes a service credit record from many years ago that could be hard to substantiate.

2. Limitation of Relief Association Service Credit to Volunteer Service. Section 2 amends Minn. Stat. § 424A.01 by adding a subdivision that prohibits firefighters from receiving service credit with a relief association for the same hours of service that the firefighter is receiving coverage in the PERA Police and Fire (P&F) plan. The proposed provision is similar to the PERA provision, Minn. Stat. § 353.01, subd. 2b, para. 14, which states that a volunteer firefighter may not receive service credit under any PERA plan for engaging in volunteer firefighter duties.

The definition of “volunteer firefighter” under Minn. Stat. § 424A.001, subd. 10, does not specify that the firefighter perform or supervise *volunteer* firefighting duties. Also, provisions in Minn. Stat., Ch. 424A, that provide service credit requirements for service pension eligibility do not require the member to be a volunteer firefighter or to perform or supervise volunteer firefighting duties. Although the statutes are intended to apply to volunteer firefighters, the lack of specificity has resulted in some career firefighters who solely perform fulltime firefighting duties that are covered by the PERA Police and Fire (P&F) plan are receiving both P&F service credit and service credit from the affiliated relief association for the same period of fulltime service. The proposed legislation is intended to stop firefighters from receiving service credit for the exact same period of service from two different public pension plans, also called “double-dibbing”. The provision does not prevent fulltime firefighters from responding as volunteers, it merely clarifies that any firefighter action must either be for P&F service credit or relief association service credit.

3. Inclusion of Emergency Medical Personnel in VFRA. Section 3 amends Minn. Stat. § 424A.01 by adding a subdivision that provides eligibility for emergency medical personnel to become members of a VFRA and qualify for a service pension only if the relief association’s bylaws are amended to authorize the eligibility and the appropriate municipal entity approves.

Individuals who solely perform emergency medical duties for a fire department are currently not eligible to receive a service pension from the affiliated relief association. The Office of the State Auditor recently conducted a survey of relief association trustees and municipal officials about how many members of the fire department solely provide volunteer emergency medical services. Of the 565 responses, 62% said that the fire department provides emergency medical services and nearly 64% said that individuals providing the emergency medical services did not receive compensation. The number of individuals within the fire department who solely provide emergency medical services ranged from 0 to 45. Due to the minimal retirement options available to volunteer emergency medical personnel and the rising number of emergency calls fire departments around the state receive, certain relief associations may need to use the relief association service pension to recruit and retain individuals who solely perform emergency medical services.

Providing these additional service pensions will have no impact on the amount of fire state aid a relief association receives, but a defined benefit relief association’s accrued liability will increase as a result. A relief association must annually calculate its special fund’s accrued liability to determine if the funding status of the plan and if the applicable municipality must provide an additional contribution. Increasing the accrued liability could result in such an additional contribution, which is why the municipality must approve the addition of emergency medical personnel to the relief association. In a defined contribution relief association, members share in contributions and investment earnings, so including more members would result in all members receiving a smaller share, which is why it is important that the current members of the relief association must approve the bylaw change.

4. VFRA Combined Service Pensions. Section 4 amends Minn. Stat. § 424A.015 by adding a subdivision permitting combined service pensions for defined contribution relief associations and includes the combined service pension language for defined benefit relief associations currently under Minn. Stat. § 424A.02, subd. 13. The amount of a prorated defined benefit service pension must be based on the amount in effect on the date of termination. The amount of a prorated defined contribution service pension must be based on the member's individual account balance on the date of termination. The articles of incorporation or bylaws of each relief association a firefighter has service with must provide for a combined service pension. The firefighter must also have a combined total of at least 10 years of service or the longest service vesting requirement of the relief associations, at least one year of service credit in each relief association, and provide notice of membership to the prior relief association within two years. The proposed authority expansion provides defined contribution relief associations the same opportunity to provide the benefits of a combined service pension to their members that is currently available to defined benefit relief association members. Although very few firefighters have taken advantage of a combined service pension, the proposed provision provides equity among all relief associations in the state.

Under a combined service pension, a firefighter's years of service with two or more fire departments are combined and that total, rather than the separate periods of service, is used to determine if the firefighter met the vesting requirements and is eligible to receive a prorated service pension from each affiliated relief association. The benefit of a combined service pension is if a firefighter has two years of service credit with one relief association and eight years of service credit with a second relief association, the combined ten years of service credit satisfies the vesting requirement and the firefighter will receive a prorated service pension from each relief association. Without a combined service pension, the firefighter would have to forfeit those two years with the first relief association. Combined service pensions also allow for service pension portability by allowing a firefighter to move around the state without fear of forfeiting service credit that is below the applicable vesting requirement. Currently, very few defined benefit relief associations' articles of incorporation or bylaws provide for a combined service pension.

5. Division of Surplus Assets of Dissolved Joint Powers Fire Department. Section 5 amends Minn. Stat. § 424B.20, subdivision 4, by providing default procedures for allocating special fund assets after a joint powers fire department dissolves and the joint powers agreement does not provide specific procedures. Minn. Stat. § 424B.20 provides the process that a relief association must follow if it is dissolving but not going to subsequently be consolidated with another relief association. Currently, when a relief association dissolves, outstanding administrative expenses and vested members of retirement age are paid. The remaining assets of the special fund are then placed in a trust fund established with the affiliated municipality and are paid out to vested members once they reach the minimum retirement age. The municipality must provide the necessary funds to cover any unfunded liability in the special fund.

The proposed legislation updates Minn. Stat. § 424B.20 to provide a default process for how the assets will be handled if the dissolved fire department was a joint powers entity and the joint powers agreement does not provide guidance. If the joint powers agreement is silent, the remaining assets will be placed in a trust fund established by the municipality with the largest population served by the joint powers fire department, if there are remaining assets after all vested members have been paid, each contracting municipality will receive a pro rata share based on the amount of operating contributions the municipality contributed over the last ten years, and if the special fund has an

unfunded liability, each contracting municipality must contribute its pro rata share based on the amount of operating contributions the municipality contributed over the past ten years.

Attachment

- HFxxxx; SFxxxx (Revisor # 16-5720)