



2007/2008

2008 Legislative Changes

As discussed in our May 2008 Pension Newsletter, the Omnibus Pension Bill that was passed into law this spring contains a number of provisions that affect volunteer fire relief associations. A bylaw “to-do” list is provided below outlining the legislative changes that have the potential to impact your relief association’s bylaws. For a complete list of changes included in the Omnibus Pension Bill, please review our May Pension Newsletter at http://www.auditor.state.mn.us/other/pensiondocs/pensionNewsletter_0805.pdf.

If you answer “yes” to any of the questions below, your relief association may be required to amend its bylaws to comply with the recent statutory changes, or your association may wish to amend its bylaws based on new statutory authority. Sample bylaw language is attached that can be modified consistent with state law to address unique requirements of your relief association. The sample bylaw language is meant to serve as a general resource guide. Your relief association should consult an attorney for answers to specific questions regarding your association’s bylaws.

1. **Do you pay interest to deferred members?** Yes No

If your relief association pays interest on a monthly basis, your association now has authority to calculate the interest on a daily, monthly, or annual basis. (Please note that the daily option is only authorized for interest allocations – not service credit calculations.) Sample bylaw language is provided in Appendix A attached that can be used to specify the calculation method for deferred interest allocations.

2. **Do you pay deferred interest under the “OSA Return” option?** Yes No

If your relief association offers interest to deferred members at the rate actually earned up to five percent, as calculated by the Office of the State Auditor, your association must amend its bylaws. Your relief association can choose to no longer offer interest to deferred members or you can select a different interest option that is authorized under state law. Please remember that changes to your deferred interest option will not affect currently deferred members. Sample bylaw language is provided in Appendix B through F for each available deferred interest option.

3. **Do you pay disability and/or survivor benefits?** Yes No

If your relief association pays disability or survivor benefits to *active* members at an amount less than the member’s years of service times the benefit level, your association must amend its bylaws. State law now requires that for *active* members, disability and survivor benefits must be calculated by multiplying the member’s years of service by the benefit level at the time of death or disability, without regard to vesting percentages. Sample bylaw language is provided in Appendix G and H that complies with these statutory changes.

4. **Do you pay funeral benefits from the special fund?** Yes No

If your relief association pays funeral benefits from the special fund your association must amend its bylaws. Authority to pay funeral benefits from the special fund has been eliminated. Your relief association continues to have authority to pay funeral benefits from the general fund. Sample bylaw language is provided in Appendix I that removes the special fund benefit.

5. **Do your bylaws define the term “ancillary benefit?”** Yes No

If your relief association bylaws currently define the term “ancillary benefit,” you should make sure that the definition matches the new statutory definition. If your relief association bylaws do not define the term, sample bylaw language is provided in Appendix J that can be used as a reference. The definition is not required to be included in your bylaws.

6. **Do your bylaws define the term “surviving spouse?”** Yes No

If your relief association bylaws currently define the term “surviving spouse,” you should make sure that the definition matches the new statutory definition. If your relief association bylaws do not define the term, sample bylaw language is provided in Appendix K. The definition is not required to be included in your bylaws.

If you have questions regarding the legislative changes please contact Rose Hennessy Allen at (651) 296-5985 or Rose.Hennessy-Allen@state.mn.us.

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APPENDIX A

DEFERRED INTEREST – ALLOCATION METHOD

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. Interest can be allocated to the deferred member based on the full period of the member's deferral, for full months that the member was deferred, or for full calendar years that the member was deferred. The following bylaw provisions can be used by a relief association that chooses to define a deferred interest allocation method.

Daily Interest Allocation

Section X - DEFERRED INTEREST ALLOCATION. Interest under Section __ is payable from the first day following the date on which the member separated from active fire department service and relief association membership, to the last day immediately before the day in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.

Monthly Interest Allocation

Section X - DEFERRED INTEREST ALLOCATION. Interest under Section __ is payable from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, to the last day of the month immediately before the month in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.

Yearly Interest Allocation

Section X - DEFERRED INTEREST ALLOCATION. Interest under Section __ is payable from the first day of the calendar year next following the date on which the member separated from active fire department service and relief association membership, to the last day of the calendar year immediately before the year in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension. Members must be deferred for the entire calendar year to receive interest for the year.

This sample bylaw provision is meant to serve as a resource guide. No sample or model explanation can or should try to address all requirements for an individual relief association. Please call your pension analyst for help in meeting any unique relief association needs at (651) 282-6110.

APPENDIX B

DEFERRED INTEREST – NOT PAID

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. The following bylaw provision can be used by a relief association that chooses not to pay interest to deferred members.

Section X - DEFERRED INTEREST. The Association shall not pay interest to deferred members.

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APPENDIX C

DEFERRED INTEREST – BOARD SET

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. The following bylaw provision can be used by a relief association that chooses to pay interest at a rate set by the board of trustees, up to five percent, and obtains municipal approval if required under Minn. Stat. § 424A.02, subd.10.

Section X - DEFERRED INTEREST. The deferred service pension is payable when the former member reaches age 50 and makes a valid written application. The relief association pays interest on fully vested and partially vested deferred service pensions during the period of deferral.¹ The Board of Trustees determines the rate of interest, up to five percent, compounded annually. Interest is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees. The deferred service pension benefit is governed by state and federal law, the articles of incorporation, and the bylaws applicable on the date on which the member separated from active service with the fire department and active membership in the Association.

¹. Alternatively, a relief association could choose to pay interest to only fully vested members.

APPENDIX D

DEFERRED INTEREST – SEPARATE VEHICLE

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. The following bylaw provision can be used by a relief association that chooses to pay interest at the rate actually earned on the portion of assets invested in a separate investment vehicle for the deferred member.

Section X - DEFERRED INTEREST. The deferred service pension is payable when the former member reaches age 50 and makes a valid written application. The relief association pays interest on the fully vested and partially vested deferred service pension during the period of deferral.¹ The amount payable to a deferred member must be transferred to a separate investment vehicle held by the relief association and maintained separately from the assets of the Association. Interest must be paid at the investment performance rate actually earned on that portion of the assets. The accrued liability for the deferred service pension is equal to the fair market value of the separate investment vehicle held by the relief association. The deferred member bears the full investment risk subsequent to transfer. The deferred service pension is governed by state and federal law, the articles of incorporation, and the bylaws applicable on the date on which the member separated from active service with the fire department and active membership in the Association.

¹. Alternatively, a relief association could choose to pay interest to only fully vested members.

APPENDIX E

DEFERRED INTEREST – SEPARATE ACCOUNT

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. The following bylaw provision can be used by a relief association that chooses to pay interest at the rate actually earned on the portion of assets invested in a separate account for the deferred members.

Section X - DEFERRED INTEREST. The deferred service pension is payable when the former member reaches age 50 and makes a valid written application. The Association pays interest on the fully vested and partially vested deferred service pensions during the period of deferral.¹ A separate investment account must be established for the amounts payable to deferred members and maintained separately from the assets of the Association. Interest must be paid at the investment performance rate actually earned on that portion of the assets. The accrued liability for the deferred member's service pension is equal to the deferred member's portion of the separate relief association account balance. The deferred member bears the full investment risk subsequent to transfer. The deferred service pension is governed by state and federal law, the articles of incorporation, and the bylaws applicable on the date on which the member separated from active service with the fire department and active membership in the Association.

¹. Alternatively, a relief association could choose to pay interest to only fully vested members.

APPENDIX F

DEFERRED INTEREST – ACTUAL INTEREST Available for Defined Contribution Plans ONLY

A relief association may, when its bylaws so provide, pay interest on a deferred pension during the period of deferral. The following bylaw provision can be used by a defined contribution plan that chooses to pay interest at the rate actually earned.

Section X - DEFERRED INTEREST. The deferred service pension is payable when the former member reaches age 50 and makes a valid written application. The Association pays interest on the fully vested and partially vested deferred lump sum service pension during the period of deferral.¹ Each deferred member account balance must be credited with net investment gains or losses at the rate actually earned by the Association on the investment of special fund assets. The deferred service pension benefit is governed by state and federal law, the articles of incorporation, and the bylaws applicable on the date on which the member separated from active service with the fire department and active membership in the association.

¹. Alternatively, the relief association could choose to pay interest to only fully vested deferred members.

APPENDIX G

LONG-TERM DISABILITY BENEFITS

A relief association may pay long-term (permanent) disability benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association. The following bylaw provisions can be used by a relief association that chooses to offer long-term disability benefits.

Lump Sum Plan Long-Term Disability Benefit

Section X – LONG-TERM DISABILITY. If a member of the Association shall become totally and permanently disabled, the Association shall pay the amount per year of service as shown in Appendix A for each year that the member served as an active firefighter in the Fire Department, without regard to minimum or partial vesting requirements. “Totally and permanently” shall be determined by a physician or surgeon acceptable to the Board of Trustees who shall certify that such disability will permanently prevent that member from performing the member’s duties in the Fire Department. The member shall be eligible to receive the disability benefit immediately upon approval of the Board of Trustees.

Defined Contribution Plan Long-Term Disability Benefit

Section X – LONG-TERM DISABILITY. If a member of the Association shall become totally and permanently disabled, the Association shall pay the member’s full account balance, without regard to minimum or partial vesting requirements. “Totally and permanently” shall be determined by a physician or surgeon acceptable to the Board of Trustees who shall certify that such disability will permanently prevent that member from performing the member’s duties in the Fire Department. The member shall be eligible to receive the disability benefit immediately upon approval of the Board of Trustees.

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APPENDIX H

SURVIVOR BENEFITS

A relief association may pay survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association. The following bylaw provisions can be used by a relief association that chooses to offer survivor benefits.

Lump Sum Plan Survivor Benefit

Section X - SURVIVOR BENEFIT. Upon the death of any member who has not yet separated from active service, the Association shall pay to the surviving spouse, if any, and if there is no surviving spouse, to the surviving child or children, if any, and if no child or children, to the estate of such deceased member the amount per year of service as shown in Appendix A for each year that the member served as an active firefighter in the Fire Department, without regard to minimum or partial vesting requirements, but in no case less than five times the pension amount per year of service in effect on the date of the death.

Defined Contribution Plan Survivor Benefit

Section X - SURVIVOR BENEFIT. Upon the death of any member who has not yet separated from active service, the Association shall pay to the surviving spouse, if any, and if there is no surviving spouse, to the surviving child or children, if any, and if no child or children, to the estate of such deceased member the member's full account balance, without regard to minimum or partial vesting requirements.

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APPENDIX I

FUNERAL BENEFITS

A relief association may no longer pay funeral benefits using special fund assets. The following bylaw provision can be used by a relief association that eliminates the special fund funeral benefit from its bylaws.

Section X - FUNERAL BENEFIT. The Association shall not pay funeral benefits from the Special Fund.

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APPENDIX J

DEFINITION – ANCILLARY BENEFIT

The following bylaw provision can be used by a relief association to define the term “ancillary benefit” in its bylaws.

Section X - ANCILLARY BENEFIT. “Ancillary benefit” means a benefit other than a service pension that is permitted by law and that is provided for in the relief association bylaws.

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APPENDIX K

DEFINITION – SURVIVING SPOUSE

The following bylaw provision can be used by a relief association to define the term “surviving spouse” in its bylaws.

Section X – SURVIVING SPOUSE. “Surviving spouse” means the spouse of a deceased member who was legally married to the member at the time of death.

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