



2008/2009

## 2009 Legislative Changes

As discussed in our May 2009 Pension Newsletter, the Omnibus Retirement Bill that was passed into law on May 22 contains a number of provisions that affect volunteer fire relief associations. Most of the changes were based upon the Working Group's suggestions. The Working Group completed a major initiative of reorganizing Chapter 424A, the chapter of state law that pertains to relief association service pensions and benefits. The reorganization included many technical changes that updated wording to current drafting standards. The reorganization and technical changes most likely will not result in required changes to your relief association's bylaws, unless your bylaws reference specific statutory citations or language. If your relief association bylaws do reference specific statutory citations or language you should compare the bylaw language with the new statutory language. We will update our Selected Relevant Statutes booklet that is provided on our website once the 2009 statutes are available. This booklet will serve as a helpful reference when reviewing and updating your bylaws.

Several of the Working Group's recommendations were substantive and are discussed in detail in this newsletter. If you answer "yes" to any of the following ten questions your relief association may be required to amend its bylaws to comply with the statutory changes, or to take advantage of new statutory authority. Sample bylaw language is attached that can be modified in accordance 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 relief association's bylaws.

Finally, one big change included in the Omnibus Retirement Bill is the creation of a voluntary statewide lump sum retirement plan. The Office of the State Auditor and our Working Group were not directly involved in the work on this proposal. The Minnesota State Fire Chiefs Association will be providing information regarding the voluntary statewide retirement plan to fire departments and relief associations later this summer.

### Do You Need to Amend Your Bylaws?

If you answer "yes" to any of these questions your relief association may need to update its bylaws!

#### 1. Do you want to allow members to resume active membership after retirement?

Previously, if a member retired from your relief association and was paid a service pension, the member was required to re-pay the previously received service pension if he or she returned to active service with your fire department. The member also was prohibited from accruing any additional service credit with your relief association. These penalties were eliminated from state law during the 2009 legislative session. Under the new law, your relief association can choose to allow members that have retired, been paid a service pension, and have resumed active service with your fire department to resume active membership in your relief association. The new law requires a 60-day period of separation and also allows your

relief association to implement certain bylaw restrictions. The restrictions that can be established in the bylaws include requiring a minimum period of resumption service to receive additional service credit. Two flow charts are attached that illustrate the different options and scenarios for calculating pensions of members that return to active service after retirement. If your relief association would like to allow members to resume active membership after retirement, the bylaws must be amended to permit the resumption of membership and to specify the requirements for accruing additional service credit. Sample bylaw language is provided in Appendix A through C attached that can be used to allow or prohibit members from resuming active membership after retirement.

**Effective Date:** July 1, 2009

**2. Do you want to allow members to resume active membership after a break in service?**

If your relief association would like to allow members to resume active membership in your relief association after they have had at least a 60-day break in active firefighting service, which includes approved leaves of absence, the bylaws **must be amended** to permit the resumption of membership and specify the requirements for doing so. Restrictions that can be established in the bylaws include requiring a minimum period of resumption service to receive additional service credit and specifying whether service performed before the break is to be calculated at the current benefit level or the prior benefit level. The two flow charts mentioned in question one of this document should be referenced to determine how service pensions for members in different situations would be calculated. Sample bylaw language is provided in Appendix A through C attached for the return to service options. Relief associations may only establish conditions on resuming service and membership after a break in service that are consistent with this new law. If your relief association had previously established conditions on resuming active service and membership in its bylaws, your relief association should promptly review its bylaws to ensure that the conditions comply with the new statutory requirements.

**Effective Date:** July 1, 2009

**3. Do you want to allow for the participation of minors in firefighting programs?**

Minors are prohibited from serving as volunteer firefighters and from being members in your relief association. An exception to this prohibition was added to state law to allow members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal and state laws. If your relief association would like to allow minors to participate in Boy Scout Explorer programs or firefighting degree programs, for example, the bylaws should be amended to provide for this exception. Sample bylaw language is provided in Appendix D attached that allows for minors to participate in these limited firefighting programs.

**Effective Date:** July 1, 2009

**4. Do you prorate service credit on a monthly basis?**

Service pensions and ancillary benefits may only be calculated based on completed years of active service, unless your relief association bylaws specifically allow for service credit to be prorated on a monthly basis. One of the recent legislative changes allows your relief association to define a “month,” but the definition must require a calendar month to have at least 16 days of active service. If your bylaws allow for monthly proration but do not define a “month,” a “month” is a completed calendar month of active service measured from the member’s date of entry to the same date in the subsequent month. If your relief association

bylaws allow for monthly proration and you would like to define a month as something other than a completed calendar month, the bylaws must be amended to take advantage of this new statutory authority. Sample bylaw language is provided in Appendix E and F that allows for monthly proration of service credit and defines a “month” of service.

**Effective Date:** July 1, 2009

**5. Do you want to purchase casualty insurance using special fund assets?**

Relief associations now have authority to use special fund assets to pay for casualty insurance premiums from the Volunteer Firefighters Benefit Association or from an insurance company licensed by the State of Minnesota offering casualty insurance. Sample bylaw language is provided in Appendix G that allows for the purchase of casualty insurance using special fund assets.

**Effective Date:** July 1, 2009

**6. Do you want to allow survivor benefits to be paid to a trust?**

The definition of a “designated beneficiary” has been changed to allow individuals receiving a lump sum benefit (from a defined contribution plan, a lump sum plan, or a monthly/lump sum combination plan where a lump sum benefit has been elected) to designate a trust created under Chapter 501B as their beneficiary. A designated beneficiary must be a natural person in cases where a monthly benefit is being disbursed. In all cases, the survivor benefit must be disbursed to the surviving spouse or surviving child or children, if there are any. Only if there is no surviving spouse and no surviving child or children may a survivor benefit be disbursed to a designated beneficiary. Sample bylaw language is provided in Appendix H attached that allows members to designate a trust as their beneficiary.

**Effective Date:** July 1, 2009

**7. Do you allow for pensions to be paid in installments?**

Members may elect to receive their service pension in several installments if permitted by the relief association bylaws. Calculation of the installment payments has been clarified so that the payments can be determined in any reasonable manner provided for in the relief association bylaws, but the total amount of the installment payments may not exceed the amount that would have been disbursed in a single payment, plus interest at an annual rate of five percent on the amount of the delayed payments for the period during which the payment was delayed. In addition, recipients of survivor benefits may now elect to receive the survivor benefit in installments. Sample bylaw language is provided in Appendix I attached that allows intended recipients to elect to receive the service pension or survivor benefit in installments.

**Effective Date:** July 1, 2009

**8. Are you a *defined contribution* plan that pays interest to deferred members?**

One of the available deferred interest options was eliminated for defined contribution plans. Defined contribution plans no longer have authority to pay interest at a rate up to five percent, as set by the Board of Trustees. Defined contribution plans that offer interest to deferred members at a flat five percent or at a rate set by the Board of Trustees must amend their bylaws to comply with this law change. There are now three available options for defined contribution plans that elect to offer interest or investment allocations to deferred members. The relief association may pay: 1) the rate actually earned on a separate investment account; 2) the rate actually earned on a separate investment vehicle; or 3) the full

investment gains or losses (allocated in the same manner as for active members). Please remember that any changes to the deferred interest provision in your bylaws will only affect future deferred members, and do not change the manner in which interest or investment income is allocated to currently deferred members. Please also note that deferred interest options have not changed for lump sum, monthly, and monthly/lump sum combination plans. Sample bylaw language is provided in Appendix J through M attached for each of the available deferred interest options.

**Effective Date:** July 1, 2009

**9. Are you a *defined contribution* plan that pays ancillary benefits?**

Survivor and disability benefits for active members of defined contribution plans must be equal to the member's full account balance (vested and nonvested portions). For deferred members, survivor and disability benefits must be equal to the deferred benefit amount (only the vested portion of the member's account). If your relief association pays ancillary benefits please review your bylaws to ensure that the benefits are calculated in a manner that is consistent with these new statutory requirements. The new requirements ensure that ancillary benefits are calculated similarly between defined benefit and defined contribution plans. Sample bylaw language is provided in Appendix N and O attached for survivor and disability benefits.

**Effective Date:** July 1, 2009

**10. Are you a *defined contribution* plan with members on a military break in service?**

Members of defined contribution plans that are absent due to service in the uniformed services receive allocations to their account as though they were an active member. Relief association service credit for periods that a member was on a military break in service continues to be subject to certain state and federal restrictions. The statutory changes clarify the allocation requirements and treat members of defined contribution plans similarly to members of defined benefit plans. Sample bylaw language is provided in Appendix P attached for defined contribution plan military breaks in service.

**Effective Date:** July 1, 2009

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

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*If you have questions please contact us:*

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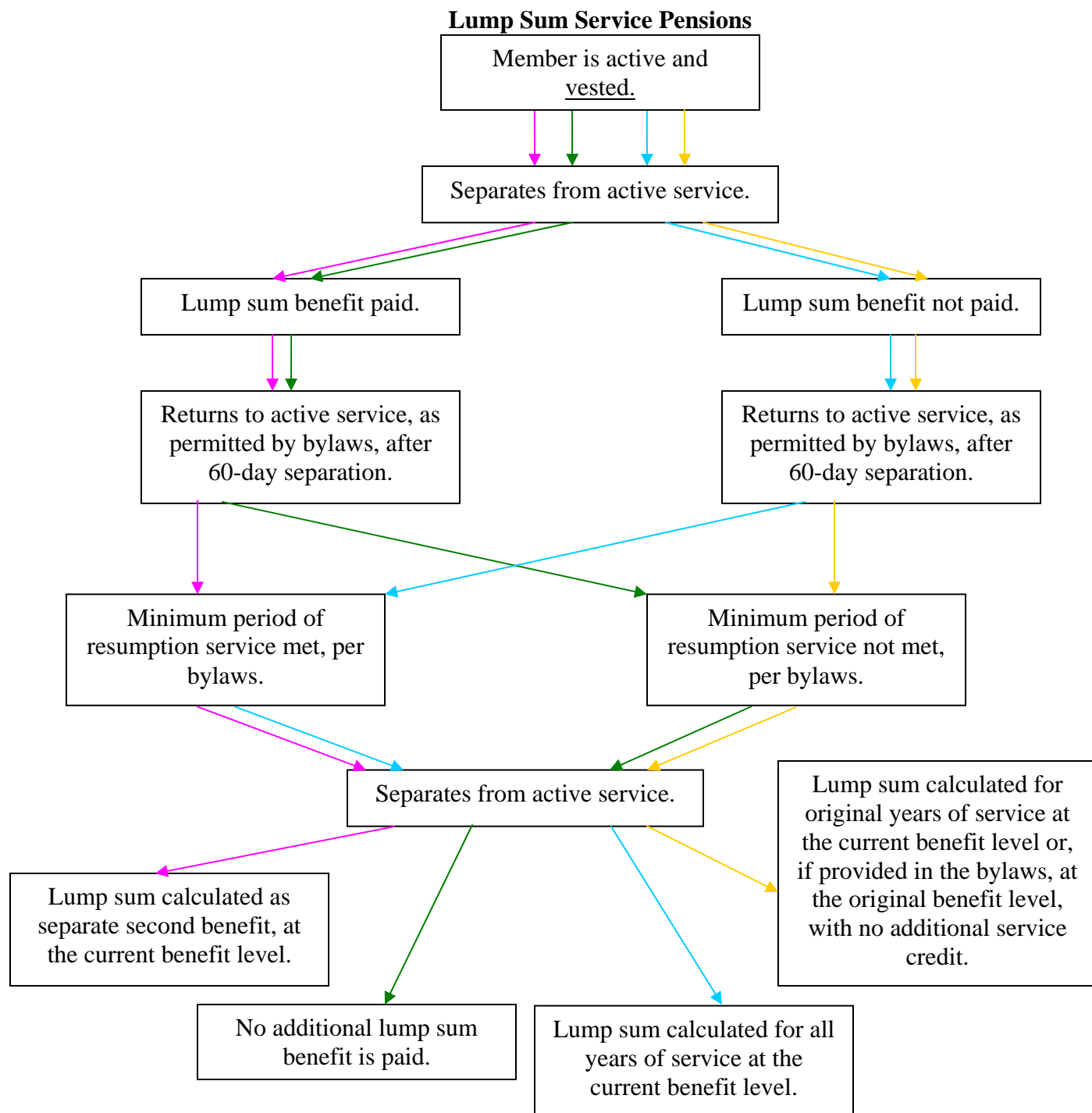
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## Volunteer Fire Relief Associations Return to Service Flow Chart





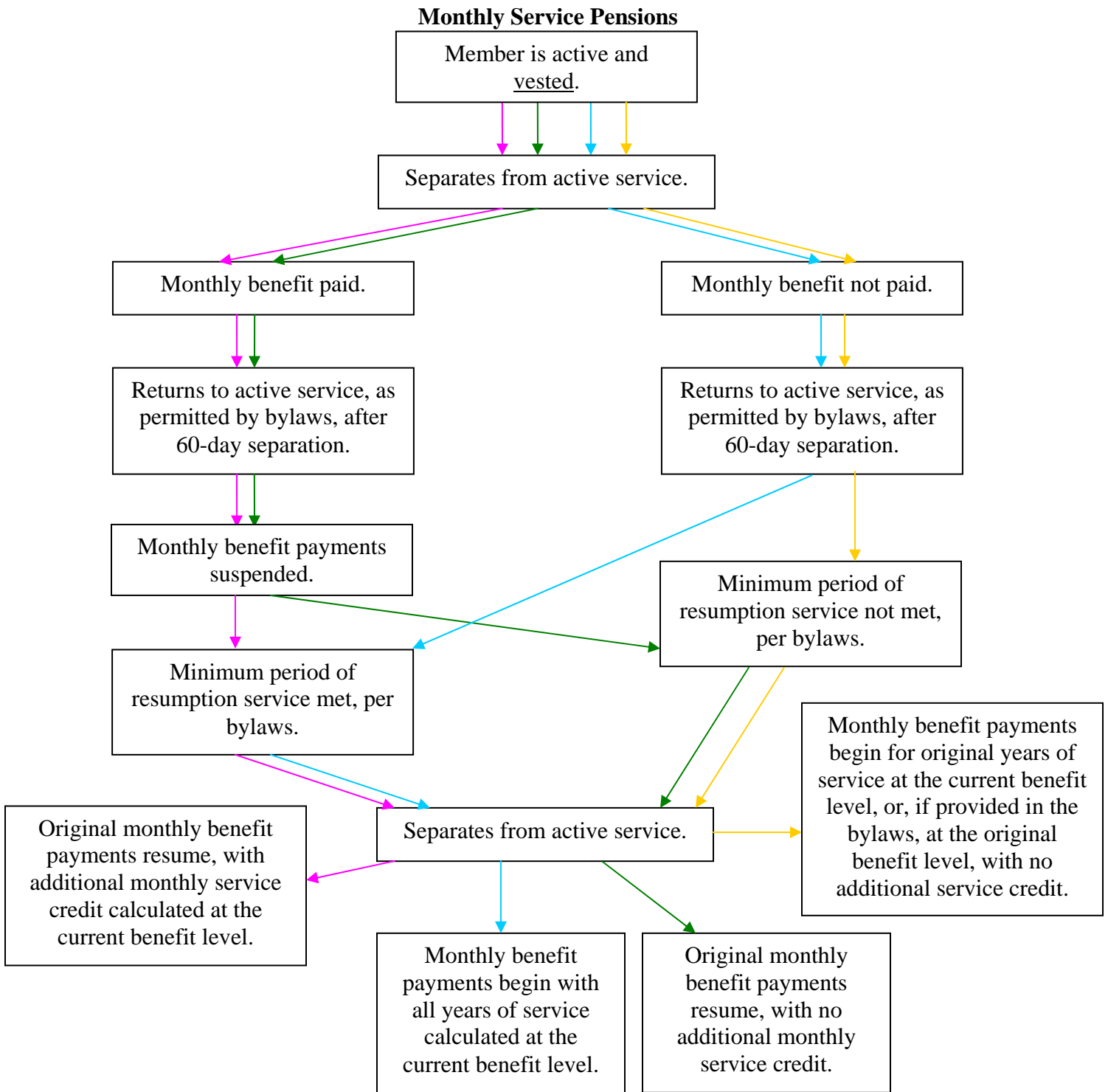
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## Volunteer Fire Relief Associations Return to Service Flow Chart



## APPENDIX A

### RETURN TO SERVICE Membership Resumption Not Allowed

Members that have ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days may resume active service with the fire department and, if the bylaws so permit, active membership in the relief association. The resumption of active membership is subject to certain bylaw requirements. **The following bylaw provision can be used by a relief association that chooses not to allow members to resume active membership after a 60-day break in service.**

Section X - ACTIVE SERVICE. Active service shall be defined as the active supervision or performance of fire suppression or prevention duties. The supervision or performance of fire suppression duties includes responding to at least (fill in percentage)% of all fire calls and attending (fill in percentage)% of all meetings and drills, in addition to any minimum service requirements specified by the Fire Department. Annually, the Board of Trustees shall obtain certification from the Fire Chief of each member's active service.

Section Y - BREAK IN SERVICE. A member unable to perform the duties of a firefighter because of a temporary disability incurred in the line of duty as a firefighter shall be considered to be on active duty. If the member is unable to perform the duties of a firefighter for any other reason, including approved leaves of absence, the member shall be considered to have a break in service and shall not receive service credit in the Association for that period of time. Parts of years may be added together to compute full years. A member, upon the resumption of active service with the Fire Department, shall recommence membership in the Association if the member's break in service was less than 60 days.

Breaks in service due to Uniform Service Leave, Minn. Stat. § 424.021, Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et al., or any other periods of inactive service protected by Federal or State law shall be handled in accordance with the relevant law.

Section Z – RETURN TO SERVICE. Any member who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, or who has received full payment for an accrued pension or benefit, shall not be eligible to resume active membership in the Association should the member resume active firefighting duties with the Fire Department. The member shall not be eligible to accrue any additional service credit with, or benefit from, the Association. If the member attained the minimum service and membership requirements specified in these bylaws prior to the member's break in service, the member shall retain the right to the benefit previously accrued, if the benefit has not been paid.

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

### RETURN TO SERVICE

#### Membership Resumption Permitted, Original Benefit Level Used

Members that have ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days may resume active service with the fire department and, if the bylaws so permit, active membership in the relief association. The resumption of active membership is subject to certain bylaw requirements. **The following bylaw provision can be used by a relief association that chooses to allow members to resume active membership after a 60-day break in service, requires a minimum resumption period of service, and calculates original years of service at the original benefit level for members that do not complete the minimum resumption period.**

Section X - ACTIVE SERVICE. Active service shall be defined as the active supervision or performance of fire suppression or prevention duties. The supervision or performance of fire suppression duties includes responding to at least (fill in percentage)% of all fire calls and attending (fill in percentage)% of all meetings and drills, in addition to any minimum service requirements specified by the Fire Department. Annually, the Board of Trustees shall obtain certification from the Fire Chief of each member's active service.

Section Y - BREAK IN SERVICE. A member unable to perform the duties of a firefighter because of a temporary disability incurred in the line of duty as a firefighter shall be considered to be on active duty. If the member is unable to perform the duties of a firefighter for any other reason, including approved leaves of absence, the member shall be considered to have a break in service and shall not receive service credit in the Association for that period of time. Parts of years may be added together to compute full years. A member, upon the resumption of active service with the Fire Department, shall recommence membership in the Association if the member's break in service was less than 60 days.

Breaks in service due to Uniform Service Leave, Minn. Stat. § 424.021, Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et al., or any other periods of inactive service protected by Federal or State law shall be handled in accordance with the relevant law.

Section Z – RETURN TO SERVICE. Any member who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members that have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the member resume active firefighting duties with the Fire Department. The member must complete at least (fill in number) years of active service with the Fire Department upon a resumption of active service to accrue any additional service credit with the Association. If the member completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the member shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit

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level in effect on the date of the member's final cessation of duties, however, no member may be paid a service pension twice for the same period of service. If the member does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the member shall receive a service pension for the member's original years of service calculated at the benefit level in effect upon the member's original cessation of duties, with no credit for the subsequent period of active service.

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## APPENDIX C

### RETURN TO SERVICE

#### Membership Resumption Permitted, Current Benefit Level Used

Members that have ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days may resume active service with the fire department and, if the bylaws so permit, active membership in the relief association. The resumption of active membership is subject to certain bylaw requirements. **The following bylaw provision can be used by a relief association that chooses to allow members to resume active membership after a 60-day break in service, requires a minimum resumption period of service, and calculates original years of service at the current benefit level for members that do not complete the minimum resumption period.**

Section X - ACTIVE SERVICE. Active service shall be defined as the active supervision or performance of fire suppression or prevention duties. The supervision or performance of fire suppression duties includes responding to at least (fill in percentage)% of all fire calls and attending (fill in percentage)% of all meetings and drills, in addition to any minimum service requirements specified by the Fire Department. Annually, the Board of Trustees shall obtain certification from the Fire Chief of each member's active service.

Section Y - BREAK IN SERVICE. A member unable to perform the duties of a firefighter because of a temporary disability incurred in the line of duty as a firefighter shall be considered to be on active duty. If the member is unable to perform the duties of a firefighter for any other reason, including approved leaves of absence, the member shall be considered to have a break in service and shall not receive service credit in the Association for that period of time. Parts of years may be added together to compute full years. A member, upon the resumption of active service with the Fire Department, shall recommence membership in the Association if the member's break in service was less than 60 days.

Breaks in service due to Uniform Service Leave, Minn. Stat. § 424.021, Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et al., or any other periods of inactive service protected by Federal or State law shall be handled in accordance with the relevant law.

Section Z – RETURN TO SERVICE. Any member who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members that have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the member resume active firefighting duties with the Fire Department. The member must complete at least (fill in number) years of active service with the Fire Department upon a resumption of active service to accrue any additional service credit with the Association. If the member completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the member shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit

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level in effect on the date of the member's final cessation of duties, however, no member may be paid a service pension twice for the same period of service. If the member does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the member shall receive a service pension for the member's original years of service calculated at the benefit level in effect upon the member's final cessation of duties, with no credit for the subsequent period of active service, however, no member may be paid a service pension twice for the same period of service.

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## APPENDIX D

### PARTICIPATION OF MINORS

Minors are prohibited from serving as volunteer firefighters and from being members in a relief association. An exception to this prohibition exists for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal and state laws. Examples of some such organizations and programs are Boy Scout Explorer programs and firefighting degree programs. The following bylaw provision can be used by a relief association that chooses to allow minors to participate in these types of firefighting programs.

Section X - MEMBERSHIP. All active members of the (fill in name) Fire Department (Fire Department) are eligible for membership in the Association. Application for membership shall be made in writing on a form supplied by the Secretary of the Association and reviewed by the Board of Trustees for compliance with federal/state statutory and plan requirements.

Section Y - EXCLUSION. No applicant may be excluded except if the member is under eighteen years of age or has some medically determinable physical or mental impairment or condition that would constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Minors that are members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by Minnesota State Statute, Section 181A.04, are permitted to perform duties with the Fire Department, but are not eligible for membership in this Association.

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## APPENDIX E

### MONTHLY SERVICE CREDIT Defined as a Partial Month

Relief association service pensions and ancillary benefits may only be calculated based on completed years of active service, unless the bylaws specifically allow for service credit to be prorated on a monthly basis. The following bylaw provision can be used by a relief association that chooses to prorate service credit on a monthly basis and defines a “month” as at least 16 days of active service. Note that relief associations can require more than 16 days of active service in their definition of a “month,” but not fewer.

Section X - YEAR OF ACTIVE SERVICE. For purposes of computing pensions and ancillary benefits or calculating vesting requirements, a year of service shall be defined as a period of 12 full months of active service in the Fire Department. Service pensions and ancillary benefits shall be prorated monthly for fractional years of service. A “month” is a calendar month in which the member completed at least (fill in number, must be at least 16) days of active service.

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## **APPENDIX F**

### **MONTHLY SERVICE CREDIT Defined as a Completed Calendar Month**

Relief association service pensions and ancillary benefits may only be calculated based on completed years of active service, unless the bylaws specifically allow for service credit to be prorated on a monthly basis. The following bylaw provision can be used by a relief association that chooses to prorate service credit on a monthly basis and requires a month to be defined as a full calendar month.

Section X - YEAR OF ACTIVE SERVICE. For purposes of computing pensions and ancillary benefits or calculating vesting requirements, a year of service shall be defined as a period of 12 full months of active service in the Fire Department. Service pensions and ancillary benefits shall be prorated monthly for fractional years of service. A “month” is a completed calendar month of active service measured from the member’s date of entry to the same date in the subsequent month.

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## APPENDIX G

### CASUALTY INSURANCE PREMIUMS

A relief association may use Special Fund assets to purchase insurance from the Volunteer Firefighters Benefit Association or from an insurance company licensed by the State of Minnesota offering casualty insurance.

Section X - SPECIAL FUND. The Special Fund shall be credited with all fire state aid money received pursuant to state law, all taxes levied by or other revenues received from the municipality pursuant to state law, any money or property donated which is specified for use for the support of the Special Fund, and any interest earned upon the assets of the Special Fund. Disbursements from the Special Fund shall not be made for any purpose other than one of the following:

- (a) Payment of members' service pensions in accordance with state law and these bylaws;
- (b) Payment of ancillary benefits in accordance with state law and these bylaws;
- (c) Payment of the fees, dues and assessments to the Minnesota State Fire Department Association, and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;
- (d) Payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and
- (e) Administrative expenses as authorized pursuant to Minn. Stat. §69.80, i.e. office expenses, salaries of the President, Secretary or Treasurer, educational expenses of the trustees, audit and legal expenses, fidelity bond expenses, and expenses of officers related to the responsibilities as administrators of the Special Fund. All other expenses of the Association shall be paid out of the General Fund.

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## **APPENDIX H**

### **DESIGNATED TRUSTS**

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. A designated beneficiary may be a trust created under Chapter 501B of Minnesota state law in cases where a defined contribution or lump sum benefit is being disbursed.

Section X - SURVIVOR BENEFIT – AUTHORIZED RECIPIENTS. A survivor benefit shall be disbursed to the member’s surviving spouse and surviving children, or if none, to the member’s designated beneficiary, or if none, to the estate if the deceased member was an active or deferred firefighter at the time of death. A designated beneficiary may be a trust created under Chapter 501B if the survivor benefit will be distributed as a one-time lump sum payment.

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## APPENDIX I

### INSTALLMENT PAYMENTS

A relief association may, when its bylaws so provide, pay at the option of the retiring member a service pension in installments. For lump sum plans, survivor benefits may be paid in installments at the option of the intended benefit recipient.

#### **Installment Payment Provision for Lump Sum Plans**

Section X - PAYMENT OPTIONS. The manner of payment of the retirement benefits shall be specified by the retiring member. Options include but are not limited to:

- (a) Single lump sum check payment payable to the retiree (subject to current income tax withholding requirements).
- (b) Lump sum payment by the Association to a recognized insurance carrier, licensed to do business in this state and approved for this product by the Commerce Commissioner under Minn. Stat. §60A.40, to purchase an annuity contract on behalf of a retiring member.
- (c) Direct transfer of the member's lump sum payment to the member's individual retirement account (IRA) under §408(a) of the Federal Internal Revenue Code, as provided for in Minn. Stat. § 424A.02, subd. 8b.
- (d) Installment payments, provided that the election is made by the intended recipient in writing and filed with the Association secretary no later than 30 days before the commencement of payment of the service pension or survivor benefit. The amount of the installment payments must be the fractional portion of the single payment service pension equal to one divided by the number of remaining annual installments. Interest will be added at an annual rate of five percent on the amount of delayed payments for the period during which payment was delayed.<sup>1</sup>

#### **Installment Payment Provision for Defined Contribution Plans**

Section X - PAYMENT OPTIONS. The manner of payment of the retirement benefits shall be specified by the retiring member. Options include but are not limited to:

- (a) Single lump sum check payment payable to the retiree (subject to current income tax withholding requirements).
- (b) Lump sum payment by the Association to a recognized insurance carrier, licensed to do business in this state and approved for this product by the Commerce Commissioner under Minn. Stat. §60A.40, to purchase an annuity contract on behalf of a retiring member.
- (c) Direct transfer of the member's lump sum payment to the member's individual retirement

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<sup>1</sup> Alternatively, the relief association may choose to not pay interest on the unpaid installments.

account (IRA) under §408(a) of the Federal Internal Revenue Code, as provided for in Minn. Stat. § 424A.02, subd. 8b.

(d) Installment payments, provided that the election is made by the retiring member in writing and filed with the Association secretary no later than 30 days before the commencement of payment of the service pension. The amount of the installment payments must be the fractional portion of the remaining account balance equal to one divided by the number of remaining annual installment payments.

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## **APPENDIX J**

### **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 K

### 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.<sup>1</sup> 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.

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

## APPENDIX L

### 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.<sup>1</sup> 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.

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

## APPENDIX M

### 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.<sup>1</sup> 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.

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



## APPENDIX N

### SURVIVOR BENEFITS For Defined Contribution Plans

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. If there are no survivors and no designated beneficiary, a death benefit may be paid to the estate of the deceased active or deferred firefighter. The following bylaw provision can be used by a relief association that chooses to offer survivor benefits.

#### Defined Contribution Plan Survivor Benefit

Section X - SURVIVOR BENEFIT. Upon the death of an *active* member of the Association, the Association shall pay to the surviving spouse and surviving child or children, or if none, to the designated beneficiary, or if none, to the estate of the deceased active member the member's full account balance, without regard to minimum or partial vesting requirements. The member's full account balance includes the vested and nonvested amounts in the member's individual account.

Upon the death of a *deferred* member of the Association, the Association shall pay to the surviving spouse and surviving child or children, or if none, to the designated beneficiary, or if none, to the estate of the deceased deferred member the member's vested account balance.

Upon the death of the recipient of *installment payments* of a service pension from the Association, the Association shall pay the remaining balance in the member's individual account to the surviving spouse and surviving child or children, or if none, to the designated beneficiary, or if none, to the estate of the deceased member.

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 O

### LONG-TERM DISABILITY BENEFITS For Defined Contribution Plans

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 provision can be used by a relief association that chooses to offer long-term disability benefits.

#### Defined Contribution Plan Long-Term Disability Benefit

Section X – LONG-TERM DISABILITY. If an *active* 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. The member’s full account balance includes the vested and nonvested amounts in the member’s individual account.

If a *deferred* member of the Association shall become totally and permanently disabled, the Association shall pay the member’s vested account balance.

If the recipient of *installment payments* of a service pension from the Association shall become totally and permanently disabled, the Association shall pay the remaining balance in the member’s individual account.

“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. (This is just one example – your relief association could adopt more, or less, restrictive language.)

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## APPENDIX P

### UNIFORMED SERVICE LEAVE For Defined Contribution Plans

Minnesota Stat. § 424A.021 permits volunteer firefighters to obtain allocations as though the person was an active member in a relief association that is a defined contribution plan, under certain limitations, for breaks in firefighting service due to a uniformed service leave.

#### ARTICLE \_\_

Section X – AUTHORIZATION. Subject to restrictions stated in Minn. Stat. § 424A.021, a volunteer firefighter who is absent from firefighting service due to service in the uniformed services, as defined in United States Code, title 38, section 4303(13), may obtain an allocation by the relief association as though the person was an active member for the period of the uniformed service, not to exceed five years, unless a longer period is required under United States Code, title 38, section 4312.

Section Y – LIMITATIONS. (a) To be eligible for an allocation as though an active member under this section, the volunteer firefighter must return to firefighting service with coverage by this relief association or its successor upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e).

(b) An allocation as though an active member is not authorized if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. An allocation as though an active member is also not authorized if the firefighter fails to provide notice to the fire department that the individual is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

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