



2009/2010

## 2010 Legislative Changes

The Omnibus Retirement Bill signed into law on May 15 contains a number of provisions that affect volunteer fire relief associations. Most of the changes were based on suggestions made by the Volunteer Fire Relief Association Working Group. The Working Group's proposals included technical changes that corrected and clarified statutory references and updates to current drafting standards. The 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 once the 2010 statutes are available. This booklet, which is available on our website, will serve as a helpful reference when reviewing and updating your bylaws. The updated booklet should be available in the fall.

Additional information about the Working Group is available on the Office of the State Auditor's website at <http://www.auditor.state.mn.us/default.aspx?page=reliefworkinggroup>.

A copy of the 2010 Omnibus Retirement Bill can be found at the link provided below. The Working Group provisions are located in Article 13.

<https://www.revisor.mn.gov/laws/?id=359&doctype=chapter&year=2010&type=0>

Several of the Working Group's recommendations adopted by the legislature were substantive and are discussed in detail in this newsletter. If you answer "yes" to any of the following five 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 that can be modified in accordance with state law to address the unique requirements of your relief association is attached. 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.

### 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 a leave of absence, break in service, or receipt of a service pension?**

Last year during the 2009 legislative session, major changes were made to allow for greater flexibility in how service pensions are handled for firefighters who resume active service with a fire department and active membership in a relief association after a break in service or after retirement and receipt of a service pension.

The Working Group received feedback from some relief associations that were using the new “return to service” law, and proposed several changes during the 2010 legislative session to further improve the law. Highlights of the updated “return to service” law include:

- Through their bylaws, relief associations may permit firefighters to resume active membership in the relief association. If the bylaws allow a firefighter to resume active membership, the firefighter is eligible to accrue additional service credit and, if the firefighter becomes vested again, can be paid a second service pension. The law requires a 60-day period of separation and also allows relief associations to implement certain restrictions in their bylaws. Firefighters can resume active service with a volunteer fire department after retirement and receipt of a service pension without needing to repay the pension amount as previously required, even if they don’t resume active membership in the relief association.
- Former members who are receiving monthly service pensions from a relief association may resume active service and membership and, if the relief association bylaws allow, may continue receiving the monthly pension payments during the resumption period of service. If the member becomes vested again, the member is eligible for an increased pension based on the additional service credit. The firefighter must resume active membership in the relief association, in addition to active service with the fire department, to continue receiving the monthly pension payments during the resumption period of service.
- Previously, any member who had a break in service of at least 60 days, including an approved leave of absence, was subject to the requirements of the “return to service” law if the member resumed active service and membership. The new law gives any member who has an approved leave of absence not exceeding one year an automatic exemption to the minimum period of resumption service requirement of the “return to service” law. This means that members with an approved leave of absence not exceeding one year may resume active service and membership, and begin accruing active service credit again immediately. Members generally would not be eligible to receive service credit during their leave of absence.
- The new law also allows the relief association, through its bylaws, to exempt members with a break in service (an unapproved leave) not exceeding one year from the minimum period of resumption service requirement, provided that the member hasn’t received a service pension or disability benefit from the association. If a relief association adopts such a bylaw amendment, it would mean that any member with a break in service of less than one year, who hasn’t received a service pension or disability benefit, would automatically be exempt from the minimum period of resumption service requirement and could begin accruing service credit again immediately upon a resumption of service and membership. Members generally are not eligible to receive service credit during their break in service.

Four flow charts are attached that illustrate the different options and scenarios for calculating pensions of members who return to active service and membership after a leave of absence or break in service, or after receipt of a service pension. Sample bylaw language is provided in the attached Exhibits E (lump sum) and F (monthly) for the return-to-service options. In addition, a sample worksheet is attached that relief associations may use as a reference for keeping track of service information for members with a leave of absence or break in service.

Relief associations may only maintain or establish conditions on resuming service and membership 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:** May 16, 2010

**Attachments:** [Exhibits A-D](#): return-to-service flow charts

[Exhibits E and F](#): sample bylaw language

[Exhibits G and H](#): service credit tracking worksheets

**Additional Information:** See the Office of the State Auditor's Statement of Position on Volunteer Fire Relief Member's Return to Service at:

[http://www.auditor.state.mn.us/other/Statements/firereliefmemberreturntoservice\\_0906\\_statement.pdf](http://www.auditor.state.mn.us/other/Statements/firereliefmemberreturntoservice_0906_statement.pdf)

## 2. Do you want to allow transfers to the Minnesota Deferred Compensation Plan?

Volunteer firefighters are eligible to participate in the Minnesota Deferred Compensation Plan, which offers a tax-deferred savings plan that can help supplement other retirement benefits. Volunteer firefighters may also choose to "roll over" their relief association service pension to their deferred compensation account if all of the following three conditions are met: 1) the relief association's bylaws authorize rollovers to the Minnesota Deferred Compensation Plan; 2) the volunteer firefighter participates in the Minnesota Deferred Compensation Plan at the time of retirement; and 3) the retiring firefighter requests in writing that the relief association rollover his or her service pension. Sample bylaw language that can be used as a reference for relief associations choosing to allow retiring members this option is provided in the attached Exhibit I.

**Effective Date:** May 16, 2010

**Attachment:** [Exhibit I](#): sample bylaw language

**Additional Information:** Additional information about the Minnesota Deferred Compensation Plan is available at <http://www.mndcplan.com/>.

## 3. Are you a defined contribution plan that would like to credit investment returns to inactive members?

State law clearly provided defined contribution plans with authority to credit active and deferred members with investment allocations, but it was unclear whether these plans had authority to credit inactive members with investment returns. Clear authority to do so was included in the 2010 Omnibus Retirement Bill. Defined contribution plans now may credit investment returns to the accounts of inactive members as permitted in the bylaws. Sample bylaw language that authorizes a relief association to credit investment returns to inactive members is provided in the attached Exhibit J.

**Effective Date:** May 16, 2010

**Attachment:** [Exhibit J](#): sample bylaw language

**Additional Information:** See the Office of the State Auditor's Statement of Position on Allocations and Deductions for Defined Contribution Plans at:

[http://www.auditor.state.mn.us/other/Statements/firereliefallocationsanddeductionsdefcontribplans\\_0908\\_statement.pdf](http://www.auditor.state.mn.us/other/Statements/firereliefallocationsanddeductionsdefcontribplans_0908_statement.pdf).

#### **4. Do you offer survivor benefits?**

The order of eligibility for survivor benefits was modified in the 2010 Omnibus Retirement Bill. The payment of survivor benefits remains optional. If a relief association chooses to offer survivor benefits, the order of eligibility for the benefits is now defined by state statute as follows.

- For a defined contribution plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate if the deceased firefighter was active or deferred.
- For a lump sum plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate if the deceased firefighter was active or deferred.
- For a monthly or monthly/lump sum combination plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate if the deceased firefighter was active or deferred. The bylaws may limit the total survivor benefit amount payable to a designated beneficiary. This change was enacted to allow monthly and monthly/lump sum combination plans to limit unfunded liabilities.

In addition, if a firefighter has no surviving children, the firefighter's surviving spouse may now waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit. This change was intended to allow flexibility to address individual situations. One example of such a situation is where another family member has medical needs and could be greater served by the survivor benefit payment.

Finally, for members of a defined contribution plan, a lump sum plan, or a monthly/lump sum combination plan where the member has elected a lump sum benefit, a trust created under Minnesota Statutes, Chapter 501B, may be a designated beneficiary.

If a firefighter creates a trust that is payable to the firefighter's surviving children and there is no surviving spouse, the survivor benefit may be paid directly to the trust. This change was made to accommodate situations in which a firefighter and the firefighter's spouse both become deceased.

Exhibit K (attached) contains sample survivor benefit bylaw provisions that can be used for reference purposes. A sample beneficiary designation form is also attached that can be modified to meet the unique needs of your relief association. In addition, a flow chart is attached that illustrates the order of eligibility for survivor benefits under the new law.

**Effective Date:** May 16, 2010

**Attachments:** [Exhibit K](#): sample bylaw language

[Exhibit L](#): sample beneficiary designation form

[Exhibit M](#): survivor benefit order of payment flow chart

#### 5. Do you define the term “surviving spouse” in your bylaws?

The definition of the term “surviving spouse” was removed from state law. The term is not required to be defined in your bylaws.

**Effective Date:** May 16, 2010

One substantive change does not involve relief association bylaws. Relief associations cannot transfer money from their special fund if money is deposited in error. A narrow exception to this rule was included in the 2010 Omnibus Retirement Bill. The new law gives the Office of the State Auditor (OSA) authority to allow relief associations to transfer money from their special fund when money is deposited into the special fund in good faith error. Evidence must be provided to the OSA that the error occurred in good faith. The OSA may require that the relief association obtain a written legal opinion concluding that the transfer would be consistent with federal and state law, before the transfer is authorized. This legislative change was intended to facilitate correction of bank coding errors or charitable gambling deposit errors. Transfers out of the special fund will be allowed only in limited instances and only after sufficient evidence and documentation is provided to the OSA.

If you have questions regarding these 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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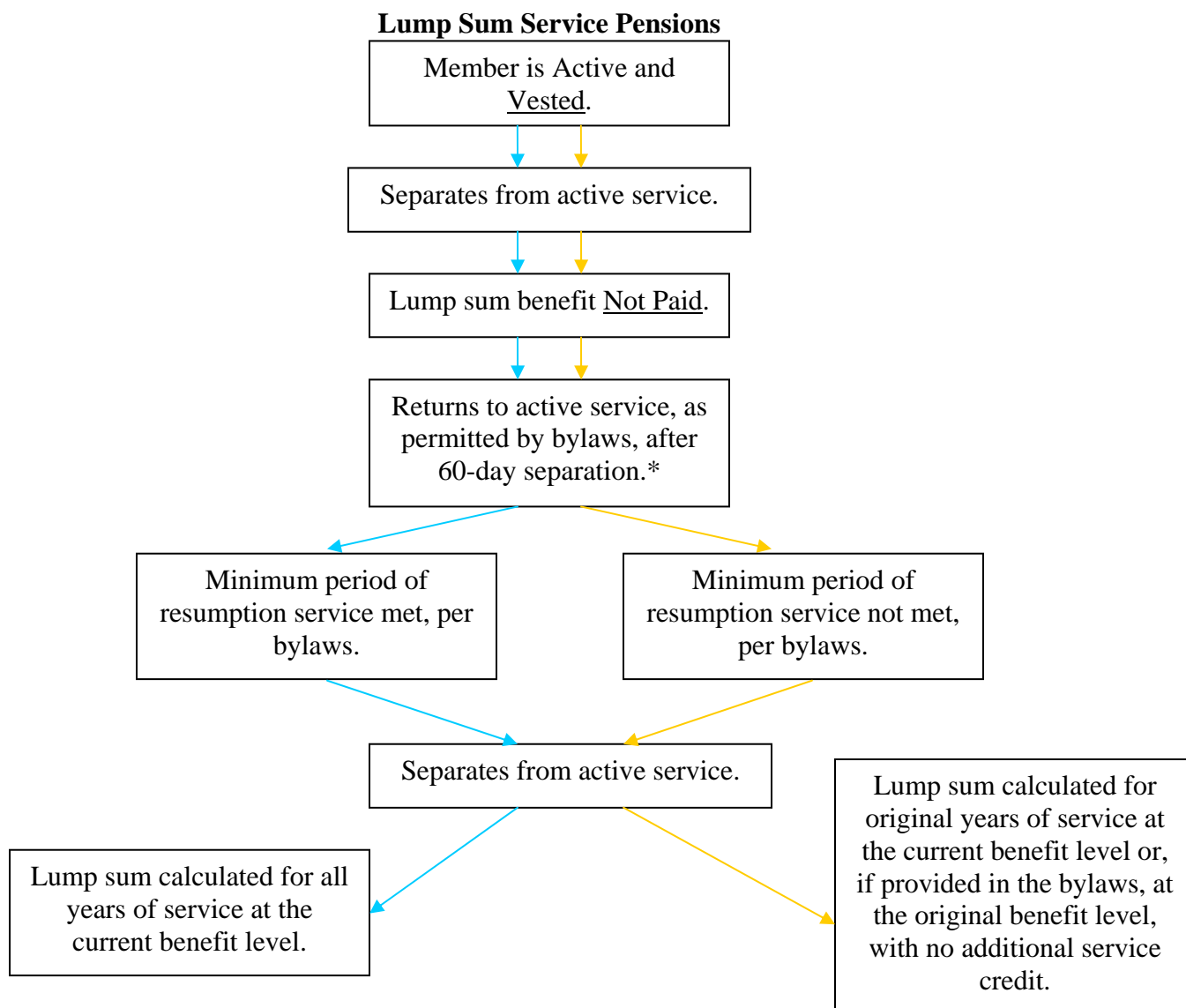
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## Exhibit A Return to Service Flow Chart Lump Sum Benefit Recipient, Benefit Not Yet Paid



\* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that didn't exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



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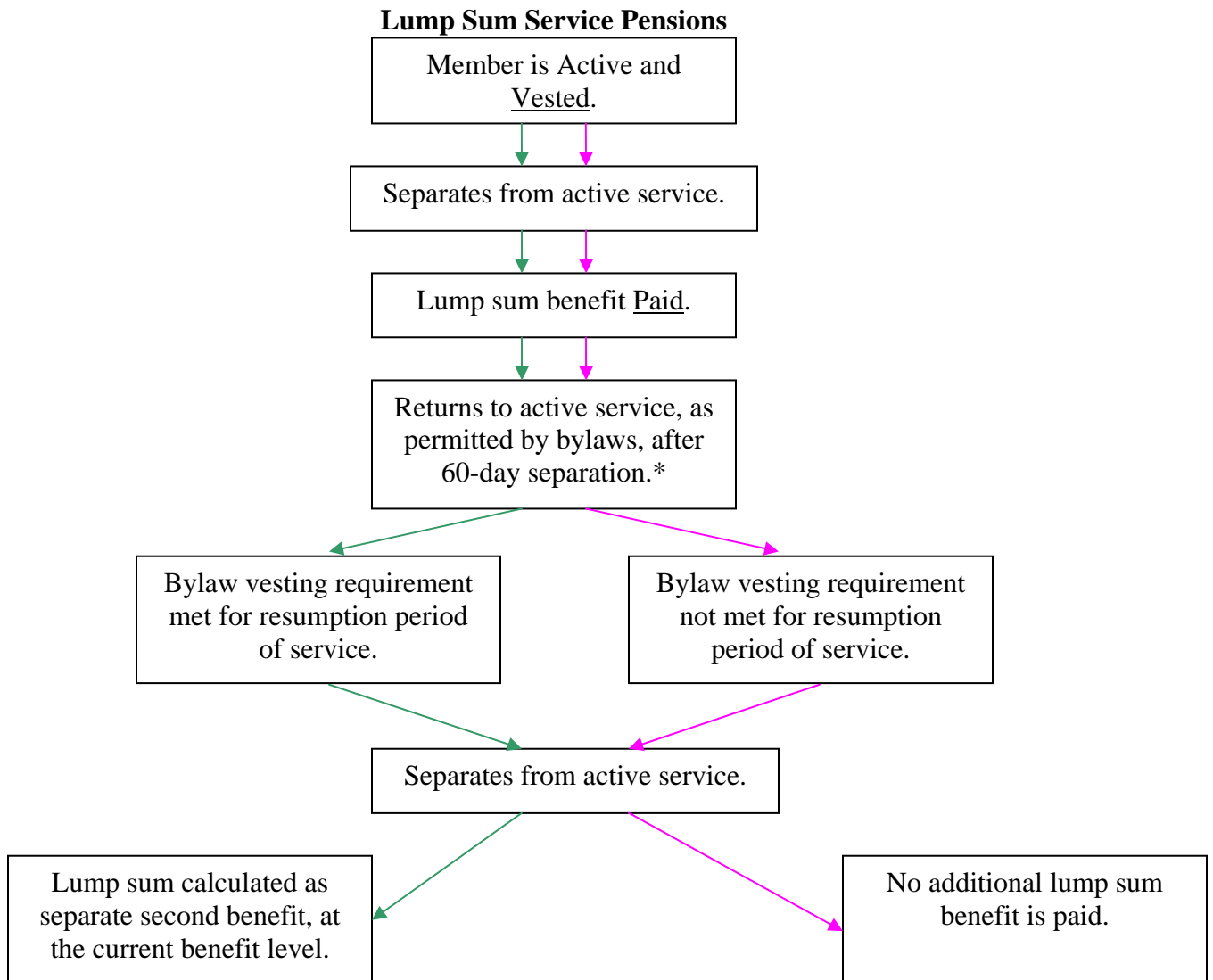
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### Exhibit B

#### Return to Service Flow Chart

#### Lump Sum Benefit Recipient, Benefit Has Been Paid



\* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that didn't exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



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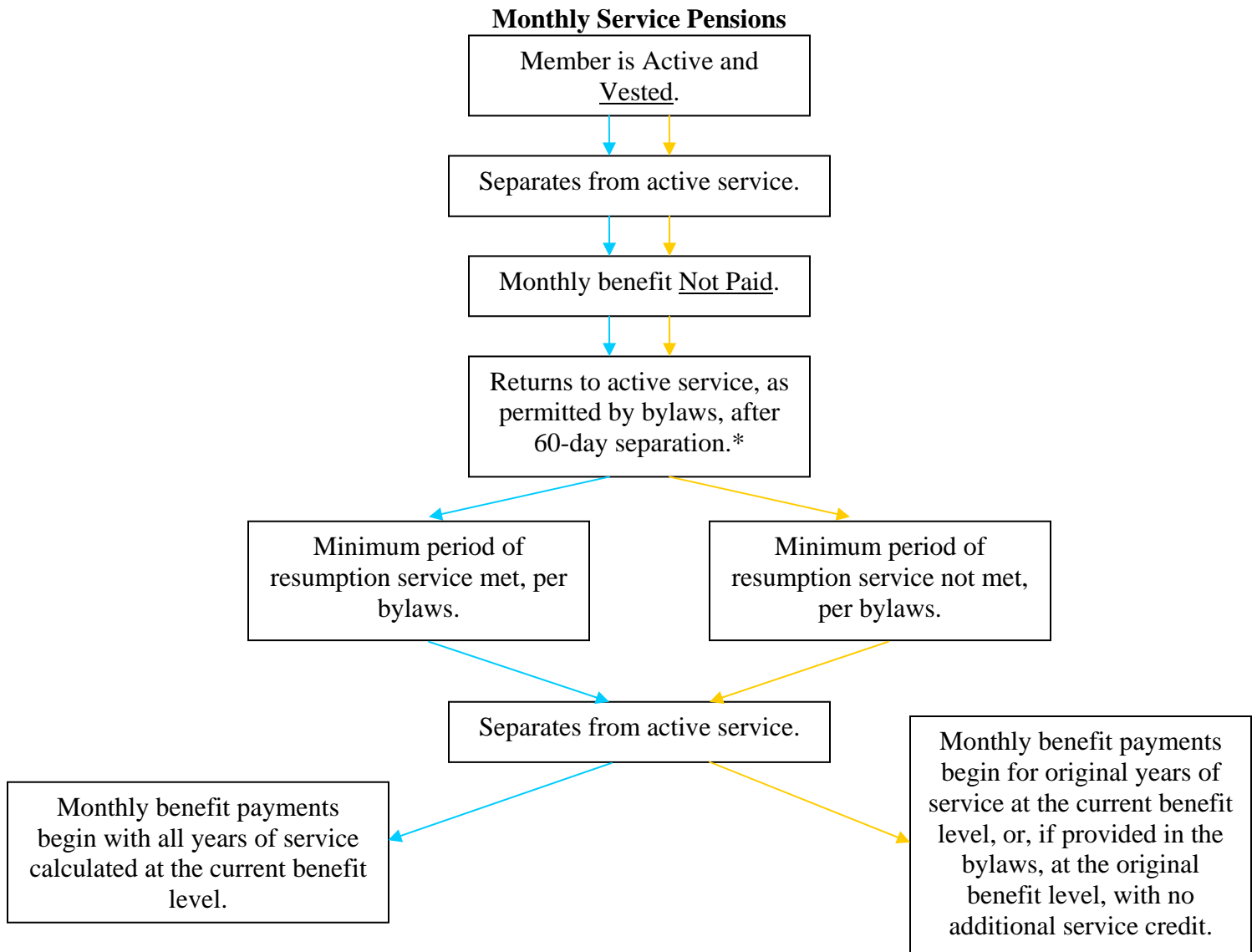
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### Exhibit C

#### Return to Service Flow Chart

#### Monthly Benefit Recipient, Benefit Not Yet Paid



\* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that didn't exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.





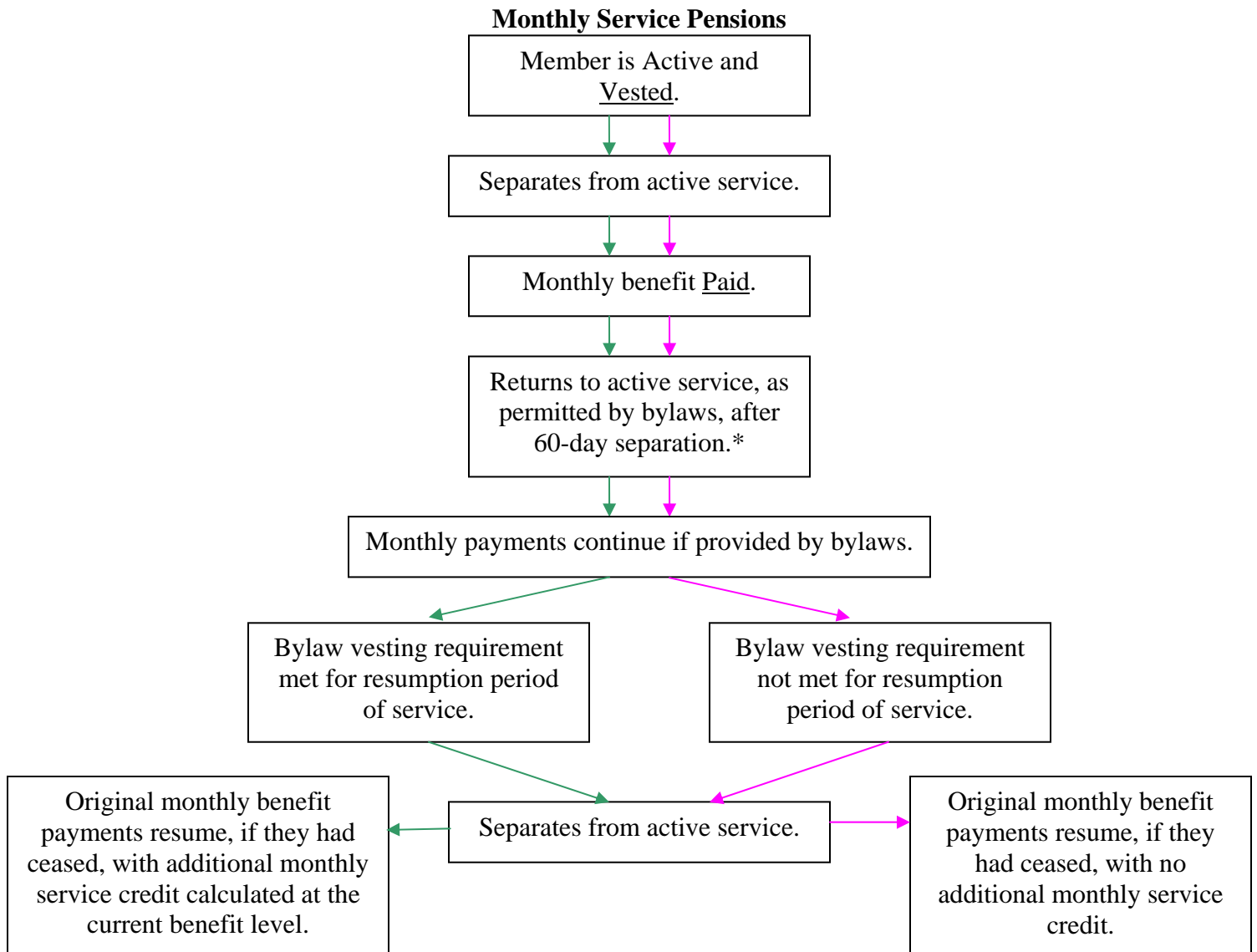
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## Exhibit D Return to Service Flow Chart Monthly Benefit Recipient, Benefits Being Paid



\* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that didn't exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.

**EXHIBIT E**  
**RETURN TO SERVICE**  
**For Lump Sum and Defined Contribution Relief Associations**

Firefighters who 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.

**Section \_\_ - 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 \_\_ - BREAK IN SERVICE.** If the member is unable to perform the duties of a firefighter for any reason, including an approved leave 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.

The requirements of this Section do not apply to breaks in service mandated by federal or state law, such as the Uniform Service Leave, Minn. Stat. § 424A.021, and the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et al.

**Section \_\_ - RETURN TO SERVICE.** (See Options #1 through #3 on pages two through four attached for language that may be inserted into this bylaw section.)

These sample bylaw provisions are 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.

## Option #1

The following bylaw provision can be used by a relief association that chooses not to allow firefighters to resume active membership after a 60-day break in service (including an approved leave of absence).

**Section \_\_ – RETURN TO SERVICE.** Any firefighter 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 firefighter resume active firefighting duties with the Fire Department. The firefighter shall not be eligible to accrue any additional service credit with, or benefit from, the Association. If the firefighter attained the minimum service and membership requirements specified in these bylaws prior to the firefighter's break in service, the firefighter shall retain the right to the benefit previously accrued, if the benefit has not been paid.

These sample bylaw provisions are 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.

## Option #2

The following bylaw provision can be used by a relief association that chooses to allow firefighters to resume active membership after a 60-day break in service or leave of absence, requires a minimum resumption period of service, and calculates original years of service at the current benefit level for firefighters who do not complete the minimum resumption period.

**Section \_\_ – RETURN TO SERVICE.** Any firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members who have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department.

If the firefighter has previously received payment of an accrued pension or benefit, the firefighter may be eligible for a second pension or benefit for the resumption period of service if the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service. No firefighter may be paid a service pension twice for the same period of service.

If the firefighter has not received payment for an accrued pension or benefit, the firefighter 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 firefighter completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the firefighter shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit level in effect on the date of the firefighter's final cessation of duties. If the firefighter does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the firefighter shall receive a service pension (if vested) for the firefighter's original years of service calculated at the benefit level in effect upon the firefighter's final cessation of duties, with no credit for the subsequent period of active service.

A firefighter who has been granted an approved leave of absence not exceeding one year by the Fire Department or by the Association is exempt from the minimum period of resumption service requirement under this Article.

**Choose one of the following two paragraphs:**

**Option 1:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *exempt from* the minimum period of resumption service requirement under this Article.

**Option 2:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *subject to* the minimum period of resumption service requirement under this Article.

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### Option #3

The following bylaw provision can be used by a relief association that chooses to allow firefighters to resume active membership after a 60-day break in service or leave of absence, requires a minimum resumption period of service, and calculates original years of service at the original benefit level for firefighters who do not complete the minimum resumption period.

**Section \_\_ – RETURN TO SERVICE.** Any firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members who have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department.

If the firefighter has previously received payment of an accrued pension or benefit, the firefighter may be eligible for a second pension or benefit for the resumption period of service if the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service. No firefighter may be paid a service pension twice for the same period of service.

If the firefighter has not received payment for an accrued pension or benefit, the firefighter 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 firefighter completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the firefighter shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit level in effect on the date of the firefighter's final cessation of duties. If the firefighter does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the firefighter shall receive a service pension (if vested) for the firefighter's original years of service calculated at the benefit level in effect upon the firefighter's original cessation of duties, with no credit for the subsequent period of active service.

A firefighter who has been granted an approved leave of absence not exceeding one year by the Fire Department or by the Association is exempt from the minimum period of resumption service requirement under this Article.

**Choose one of the following two paragraphs:**

**Option 1:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *exempt from* the minimum period of resumption service requirement under this Article.

**Option 2:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *subject to* the minimum period of resumption service requirement under this Article.

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**EXHIBIT F**  
**RETURN TO SERVICE**  
**For Monthly and Monthly/Lump Sum Relief Associations**

Firefighters who 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.

**Section \_\_ - 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 \_\_ - BREAK IN SERVICE.** If the member is unable to perform the duties of a firefighter for any reason, including an approved leave 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.

The requirements of this Section do not apply to breaks in service mandated by federal or state law, such as the Uniform Service Leave, Minn. Stat. § 424A.021, and the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et al.

**Section \_\_ - RETURN TO SERVICE.** (See Options #1 through #3 on pages two through six attached for language that may be inserted into this bylaw section.)

These sample bylaw provisions are 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.

## Option #1

The following bylaw provision can be used by a relief association that chooses not to allow firefighters to resume active membership after a 60-day break in service or leave of absence.

**Section \_\_ – RETURN TO SERVICE.** Any firefighter 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 firefighter resume active firefighting duties with the Fire Department. The firefighter shall not be eligible to accrue any additional service credit with, or benefit from, the Association. If the firefighter attained the minimum service and membership requirements specified in these bylaws prior to the firefighter's break in service, the firefighter shall retain the right to the benefit previously accrued, if the benefit has not been paid.

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## Option #2

The following bylaw provision can be used by a relief association that chooses to allow firefighters to resume active membership after a 60-day break in service or leave of absence, requires a minimum resumption period of service, and calculates original years of service at the current benefit level for firefighters who do not complete the minimum resumption period.

**Section \_\_ – RETURN TO SERVICE.** Any firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members who have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department.

If the firefighter has previously received payment of an accrued *lump sum* pension or benefit, the firefighter may be eligible for a second pension or benefit for the resumption service credit if the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

**Choose one of the following two paragraphs:**

**Option 1:** If the firefighter is a retired member receiving a *monthly* service pension, the firefighter may *continue collecting* the monthly service pension during the resumption period of service. If the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service, the firefighter is entitled to an additional monthly service pension based on the resumption service credit and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

**Option 2:** If the firefighter is a retired member receiving a *monthly* service pension, the firefighter's monthly service pension payments *must cease* during the resumption period of service. If the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service, the firefighter is entitled to an additional monthly service pension based on the resumption service credit and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

If the firefighter has not received payment for an accrued pension or benefit, the firefighter 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 firefighter completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the firefighter shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit level in effect on the

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date of the firefighter's final cessation of duties. If the firefighter does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the firefighter shall receive a service pension (if vested) for the firefighter's original years of service calculated at the benefit level in effect upon the firefighter's final cessation of duties, with no credit for the subsequent period of active service.

A firefighter who has been granted an approved leave of absence not exceeding one year by the Fire Department or by the Association is exempt from the minimum period of resumption service requirement under this Article.

**Choose one of the following two paragraphs:**

**Option 1:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *exempt from* the minimum period of resumption service requirement under this Article.

**Option 2:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *subject to* the minimum period of resumption service requirement under this Article.

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## Option #3

The following bylaw provision can be used by a relief association that chooses to allow firefighters to resume active membership after a 60-day break in service or leave of absence, requires a minimum resumption period of service, and calculates original years of service at the original benefit level for firefighters who do not complete the minimum resumption period.

**Section \_\_ – RETURN TO SERVICE.** Any firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days, including former members who have received payment for an accrued pension or benefit, shall be eligible to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department.

If the firefighter has previously received payment of an accrued *lump sum* pension or benefit, the firefighter may be eligible for a second pension or benefit for the resumption service credit if the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

**Choose one of the following two paragraphs:**

**Option 1:** If the firefighter is a retired member receiving a *monthly* service pension, the firefighter may *continue collecting* the monthly service pension during the resumption period of service. If the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service, the firefighter is entitled to an additional monthly service pension based on the resumption service credit and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

**Option 2:** If the firefighter is a retired member receiving a *monthly* service pension, the firefighter's monthly service pension payments *must cease* during the resumption period of service. If the firefighter meets the vesting requirements under Article (fill in number) based on the resumption years of service, the firefighter is entitled to an additional monthly service pension based on the resumption service credit and calculated at the benefit level in effect upon the firefighter's final cessation of duties. No firefighter may be paid a service pension twice for the same period of service.

If the firefighter has not received payment for an accrued pension or benefit, the firefighter 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 firefighter completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the firefighter shall receive a service pension for all years of active service (and months, if applicable) calculated at the benefit level in effect on the

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date of the firefighter's final cessation of duties. If the firefighter does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the firefighter shall receive a service pension (if vested) for the firefighter's original years of service calculated at the benefit level in effect upon the firefighter's original cessation of duties, with no credit for the subsequent period of active service.

A firefighter who has been granted an approved leave of absence not exceeding one year by the Fire Department or by the Association is exempt from the minimum period of resumption service requirement under this Article.

**Choose one of the following two paragraphs:**

**Option 1:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *exempt from* the minimum period of resumption service requirement under this Article.

**Option 2:** A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association is *subject to* the minimum period of resumption service requirement under this Article.

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**EXHIBIT I**  
**MINNESOTA DEFERRED COMPENSATION PLAN**  
**Transfers Authorized**

Volunteer firefighters are eligible to participate in the Minnesota Deferred Compensation Plan, which offers a tax-deferred savings plan that can help supplement other retirement benefits. A volunteer firefighter may also choose to “roll over” his or her relief association service pension to his or her deferred compensation account if the bylaws authorize the rollovers, if the volunteer firefighter participates in the Minnesota Deferred Compensation Plan at the time of retirement, and if the retiring firefighter requests in writing that the relief association rollover his or her service pension. The following bylaw provision can be used by a relief association that chooses to allow its members the option of rolling over their service pensions to their individual accounts within the Minnesota Deferred Compensation Plan.

**Section \_\_ - 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. Following the death of an active member, at the written request of the deceased member's surviving spouse, the survivor benefit may be directly transferred to the surviving spouse's IRA.

(d) Direct transfer of the member's lump sum payment to the member's individual Minnesota deferred compensation account under Minn. Stat. § 424A.015, subd. 5.

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**EXHIBIT J**  
**INACTIVE MEMBER INVESTMENT ALLOCATIONS**  
**For Defined Contribution Plans**

Defined contribution plans may choose to credit investment returns to inactive members, if the bylaws permit and as the bylaws define. Inactive members include members who are on a leave of absence or a break in service, and members who have separated from active service before becoming vested but their accounts have not yet been forfeited. The following bylaw provision can be used by a defined contribution relief association that chooses to allocate investment returns to its inactive members.

**Section \_\_ – DEFINED CONTRIBUTION SERVICE PENSION.** Upon meeting the requirements of Section (fill in number) of this Article, the Association shall pay a defined contribution lump sum service pension to each eligible member. An individual account for each firefighter who is a member of the Association shall be established. To each individual active member account must be credited an *equal* share of:

- (a) any amounts of fire **state aid** received by the Association;
- (b) any amounts of **municipal contributions** to the Association raised from levies on real estate or from other available revenue sources exclusive of fire state aid; and
- (c) any amount equal to the share of the assets of the special fund to the credit of:
  - (1) any former member who terminated active service with the fire department to which the relief association is associated prior to meeting the minimum service requirement and has not returned to active service with the fire department for a period *not shorter than five years*; or
  - (2) any retired member who retired prior to obtaining a full nonforfeitable interest in the amounts credited to the individual member account (i.e. two types of forfeitures).

In addition, any **investment return** on the assets of the special fund must be credited *in proportion to* the share of the assets of the special fund to the credit of each individual active member account.

**Choose one of the following two paragraphs:**

**Option 1:** Furthermore, any **investment return** on the assets of the special fund must be credited *in proportion to* the share of the assets of the special fund to the credit of each individual inactive member account.

**Option 2:** Furthermore, inactive member accounts will be credited with **investment returns** in the same manner as investment returns are credited to deferred members under Article (fill in number) of these bylaws.

Investment management fees will be deducted in proportion to the share of the assets of the special fund to the credit of each individual member account. Administrative expenses of the special fund will be deducted in equal shares based on the number of months that each member had an account balance during the year.

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Accounts for members who retire before becoming fully vested under Section (fill in number) of this Article will be reduced pursuant to the partial vesting schedule as stated in Section (fill in number) of this Article. Any nonvested portion of the member's account will be forfeited when the member's service pension is disbursed.

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## **EXHIBIT K SURVIVOR BENEFITS**

Providing survivor benefits is optional. If a relief association chooses to offer survivor benefits, the order of eligibility for the benefits and the benefit calculation method are defined by Minnesota statute.

### **Lump Sum Plan Type**

The following bylaw provision can be used by a lump sum relief association that chooses to offer survivor benefits.

**Section \_\_ - SURVIVOR BENEFIT.** A survivor benefit shall be disbursed to the member's surviving spouse upon the death of a member of the Association. If there is no surviving spouse, the benefit shall be disbursed to the member's surviving children. If there is no surviving spouse and there are no surviving children, the benefit shall be disbursed to the member's designated beneficiary and, if no beneficiary has been designated, the benefit shall be paid as a death benefit to the estate if the deceased member was an active or deferred firefighter at the time of death.

If there are no surviving children, the member's surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

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. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit may be paid to the trust.

Upon the death of a member who has *not yet separated from active service*, the Association shall pay a survivor benefit equal to 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.

Upon the death of a *deferred* member, the Association shall pay a survivor benefit equal to the member's deferred benefit amount.

**Section \_\_ - SURVIVOR SUPPLEMENTAL BENEFIT.** Upon the payment of a lump sum survivor benefit to the survivor of a deceased active or deceased deferred member, a supplemental survivor benefit will be paid to the surviving spouse or, if none, to the surviving child or children. The survivor supplemental benefit is calculated as twenty percent of the survivor benefit distribution, but not to exceed \$2,000.

**Section \_\_ - LIMITATIONS.** Following the receipt of a lump sum survivor's benefit, a member's surviving spouse, child or children, designated beneficiary, and estate are not entitled to any other or additional financial relief or benefits from the Association.

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## Defined Contribution Plan Type

The following bylaw provision can be used by a defined contribution relief association that chooses to offer survivor benefits.

**Section \_\_ - SURVIVOR BENEFIT.** A survivor benefit shall be disbursed to the member's surviving spouse upon the death of a member of the Association. If there is no surviving spouse, the benefit shall be disbursed to the member's surviving children. If there is no surviving spouse and there are no surviving children, the benefit shall be disbursed to the member's designated beneficiary and, if no beneficiary has been designated, the benefit shall be paid as a death benefit to the estate if the deceased member was an active or deferred firefighter at the time of death.

If there are no surviving children, the member's surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

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. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit may be paid to the trust.

Upon the death of an *active* member, the Association shall pay a survivor benefit equal to 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, the Association shall pay a survivor benefit equal to 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 as the survivor benefit.

**Section \_\_ - SURVIVOR SUPPLEMENTAL BENEFIT.** Upon the payment of a lump sum survivor benefit to the survivor of a deceased active or deceased deferred member, a supplemental survivor benefit will be paid to the surviving spouse or, if none, to the surviving child or children. The survivor supplemental benefit is calculated as twenty percent of the survivor benefit distribution, but not to exceed \$2,000.

**Section \_\_ - LIMITATIONS.** Following the receipt of a lump sum survivor's benefit, a member's surviving spouse, child or children, designated beneficiary, and estate are not entitled to any other or additional financial relief or benefits from the Association.

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## Monthly and Monthly/Lump Sum Combination Plan Types

The following bylaw provision can be used by a monthly or monthly/lump sum combination relief association that chooses to offer survivor benefits.

**Section \_\_ - SURVIVOR BENEFIT.** A survivor benefit shall be disbursed to the member's surviving spouse upon the death of a member of the Association. If there is no surviving spouse, the benefit shall be disbursed to the member's surviving children. If there is no surviving spouse and there are no surviving children, the benefit shall be disbursed to the member's designated beneficiary and, if no beneficiary has been designated, the benefit shall be paid as a death benefit to the estate if the deceased member was an active or deferred firefighter at the time of death.

If there are no surviving children, the member's surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

**Choose one of the following two paragraphs:**

**Option 1:** The total survivor benefit amount payable to a designated beneficiary of a deceased member may not exceed (fill in number) times the annual monthly benefit distribution. 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. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit may be paid to the trust.

**Option 2:** 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. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit may be paid to the trust.

Upon the death of a member who has *not yet separated from active service*, the Association shall pay a survivor benefit equal to 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.<sup>1</sup>

Upon the death of a *deferred* member, the Association shall pay a survivor benefit equal to the member's deferred benefit amount.

**Section \_\_ - SURVIVOR SUPPLEMENTAL BENEFIT.** Upon the payment of a lump sum survivor benefit to the survivor of a deceased active or deceased deferred member, a supplemental survivor benefit will be paid to the surviving spouse or, if none, to the surviving child or children.

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<sup>1</sup> This language is intended for relief associations that pay lump sum survivor benefits in cases of an active or deferred member's death. If your relief association pays monthly survivor benefits in these instances, or offers a survivor benefit upon the death of a retired member, your association will need to modify this sample language.

The survivor supplemental benefit is calculated as twenty percent of the survivor benefit distribution, but not to exceed \$2,000.

**Section \_\_ - LIMITATIONS.** Following the receipt of a lump sum survivor's benefit, a member's surviving spouse, child or children, designated beneficiary, and estate are not entitled to any other or additional financial relief or benefits from the Association.

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**EXHIBIT L**  
**Volunteer Firefighter Relief Association**  
**DESIGNATION OF BENEFICIARY**

Member's Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Spouse's Name: \_\_\_\_\_

Spouse's Date of Birth: \_\_\_\_\_

**Instructions**

This Designation of Beneficiary Form is effective upon receipt by the Volunteer Firefighter Relief Association and supersedes all prior designations. In designating beneficiaries, use full, proper names. If a trust is named as a beneficiary, include its name, the date the trust was established and its address. This Designation of Beneficiary is subject to the Laws of Minnesota.

A. I hereby designate the following as my Primary Beneficiary(ies):

**PRIMARY BENEFICIARY**

Name	Relationship	SSN	Date of Birth	Percentage

Must equal 100%\*

B. In the event there is no primary beneficiary(ies) at my death, I hereby designate the following as contingent beneficiary(ies):

**CONTINGENT BENEFICIARY**

Name	Relationship	SSN	Date of Birth	Percentage

Must equal 100%

I have completed, understand and agree to all (2) pages of this Designation of Beneficiary Form. I hereby revoke all prior designations (if any) of primary and contingent beneficiaries.

\_\_\_\_\_  
Member's Signature

\_\_\_\_\_  
Date

\* When more than one beneficiary is designated and no percentage is specified, payment to each surviving beneficiary will automatically be made in equal shares, or 100 percent to the last surviving beneficiary.

C. Current Marital Status: The member and the spouse should both sign this form when designating someone other than the spouse as a primary beneficiary. Failure to obtain the spouse's witnessed signature may result in the automatic designation of the spouse as beneficiary.

Check one:

\_\_\_\_\_ I **am not** married. I understand that if I become married in the future, this form may automatically cease to apply and I should file a new Designation of Beneficiary.

\_\_\_\_\_ I **am** married. If my spouse is not the only Primary Beneficiary, my spouse has signed the consent on the bottom of this form. I understand that, if my marital status changes, this Designation may remain in effect until I file a new Designation.

\_\_\_\_\_  
Member Signature

\_\_\_\_\_  
Date

**GOVERNMENT DATA PRACTICES NOTICE: The data you supply on this form will be used by the Relief Association to process your benefit application. You are not legally required to provide this data, but if you do not provide it, the Relief Association may not be able to properly process your benefit application.**

D. Consent by Spouse

I certify that I am the spouse of the member named at the beginning of this form. I have read the form as completed and signed by my spouse. I hereby consent to the Designation of Beneficiary. I acknowledge that, to the extent anyone other than me is designated as a Primary Beneficiary, I am waiving any rights that I may otherwise have to receive benefits from the Volunteer Firefighter Relief Association after my spouse's death.

\_\_\_\_\_  
Spouse's Signature

\_\_\_\_\_  
Date

Subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

County of: \_\_\_\_\_

State of: \_\_\_\_\_

Notary Public's signature: \_\_\_\_\_

## **EXHIBIT M**

### **Order of Payment for Survivor Benefits**

**New Law:**

