

# 2013 Legislative Update

for Volunteer Fire Relief Associations

**Inside this issue:**

**Introduction**

Board-Set Deferred Interest Rates	2
Deferred-Service Pension Payment Methods	3
Supplemental Benefits	5
Audit Threshold	6
Withholding Membership Dues from Per-Call Payments	6
Requirement to Report Evidence of Theft	7
New State Fire Aid Program	7
Fiscal Year Defined	8
Investment Performance Information	8
Pension Division Staff	8

The Omnibus Retirement Bill signed into law on May 23, 2013, contains a number of provisions that affect volunteer fire relief associations. Many of the changes were based on suggestions made by the Volunteer Fire Relief Association Working Group. The proposals included technical changes that corrected and clarified statutory references and updates to current drafting standards. The technical changes most likely will not require changes to your relief association’s bylaws, unless your bylaws reference specific statutory citations or language that has been changed. We will update our Selected Relevant Statutes booklet once the 2013 statutes are available.

*Several of the changes adopted by the Legislature are substantive and are discussed in detail below. Your relief association may need to amend its bylaws to comply with these statutory changes or to take advantage of new statutory authority.*

Information is also included in this Update about a few other bills passed by the Legislature this year, but not developed by the Working Group, that impact volunteer fire relief associations.

The Office of the State Auditor (OSA)’s Sample Bylaw Guides have been updated to reflect the recent law changes. The bylaw guides are available in both MS Word and PDF formats on our website at: <http://www.auditor.state.mn.us/default.aspx?page=20120208.000>.

Your relief association should consult an attorney for answers to specific questions regarding your relief association’s bylaws.

A copy of the 2013 Omnibus Retirement Bill can be found at the link provided below. The Working Group provisions are located in Article 6.

<https://www.revisor.mn.gov/laws/?id=111&year=2013&type=0>

### Sample Bylaw Guide

See Article VII, Section 1, for sample language that defines ratification requirements and when deferred interest rates set by a board of trustees become payable.



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## Board-Set Deferred Interest Rates

Defined-benefit lump-sum and monthly/lump-sum combination plans have the option of paying interest to deferred members at a rate of interest, up to five percent, that is set by the relief association's board of trustees. Two important changes were passed into law that relate to 1) ratification requirements for deferred interest rates set by a board of trustees and 2) the timing of when the rates become payable.

### Ratification Requirements

Any change in the interest rate set by the board of trustees, up or down, must be ratified by the city council or town board of the municipality affiliated with the relief association before the new rate becomes effective. For relief associations affiliated with an independent nonprofit firefighting corporation, the interest rate must be ratified by the board of the independent nonprofit firefighting corporation.

### Timing of Interest Rates

Interest rates set by a relief association's board of trustees become payable beginning on the January 1 following the date on which the rate was ratified by the municipality or independent nonprofit firefighting corporation. For example, a relief association's board of trustees sets an interest rate of three percent on February 15, 2014. The affiliated city council ratifies the interest rate at its council meeting on March 5, 2014. The interest rate will become payable on January 1, 2015.

**Effective Date:** January 1, 2014.

**Additional Information:** See the OSA's SOP on Interest Earnings for Deferred Members of Volunteer Fire Relief Associations at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.005>.

## Deferred-Service Pension Payment Methods

Payment methods were defined for each deferred-interest option during the 2012 legislative session. There was an error in the language adopted for defined-benefit lump-sum and monthly/lump-sum combination plans, however, which was corrected during the 2013 session.

Relief associations that elect to pay interest to a deferred member must decide on an interest payment method, including the interest payment starting date and ending date. Default payment methods for each deferred interest type are set in statute. A relief association may choose to define a different payment method in its bylaws, but if a method is not defined in the bylaws, or if the bylaw definition doesn't include the payment starting date and ending date, the default established in state statute applies.

### Sample Bylaw Guide

See Article VII, Section 2, for sample language that defines deferred-interest payment methods.

### Default Payment Methods for Lump-Sum and Monthly/Lump-Sum Combination Plans

For lump-sum and monthly/lump-sum combination relief associations that choose to: 1) set up a separate investment account; or 2) allow the board of trustees to set an interest rate up to five percent, the default payment method is to pay interest beginning on the first day of the month following the date on which the member separates from active service and membership and ending on the last day of the month immediately before the month in which the deferred member begins to receive the deferred service pension.

For lump-sum and monthly/lump-sum combination relief associations that choose to set up a separate investment vehicle, the default method is to pay interest or additional investment performance beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member begins to receive the deferred service pension.

**Effective Date:** Retroactive to January 1, 2013.

**Additional Information:** See the OSA's SOP on Interest Earnings for Deferred Members of Volunteer Fire Relief Associations at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.005>.

## Deferred Service Pension Payment Methods—continued

### Default Payment Methods for Defined-Contribution Plans

For defined contribution relief associations that choose to set up a separate investment vehicle, the default method is to pay interest or additional investment performance beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member begins to receive the deferred service pension.

For defined contribution relief associations that choose to: 1) set up a separate investment account; or 2) credit full investment gains and losses, the default method is to pay interest or additional investment performance beginning on the date that the member separates from active service and membership and ending on the “accounting date” immediately before the deferred member begins to receive the deferred service pension.

The “accounting date” is the date on which a defined contribution allocation table is prepared. The “accounting date” can be defined by the relief association in its bylaws. If a deferred member notifies the relief association that the member intends to take distribution of his or her deferred service pension on May 5, 2014, and the most recent defined-contribution allocation table available on that date was prepared as of December 31, 2013, the member’s deferred service pension would be equal to his or her account balance as of the December 31, 2013, accounting date.

*Relief associations may choose to define their own payment method in their bylaws.* For example, a relief association could specify that interest is paid to deferred members for each completed calendar month that a member is deferred, or for each completed calendar year that a member is deferred. Any definition must include the payment starting date and ending date for the bylaw definition to become effective.

**Effective Date:** January 1, 2013.

**Additional Information:** See the OSA’s SOP on Interest Earnings for Deferred Members of Volunteer Fire Relief Associations at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.005>.

### Sample Bylaw Guide

See Article VIII, Section 2, for sample language that defines deferred-interest payment methods.

## Supplemental Benefits

The payment of a supplemental benefit to an authorized recipient of a survivor benefit is now mandatory rather than optional, and authorizing language to pay the benefit is no longer required to be included in a relief association's bylaws for the supplemental benefit to be paid.

Supplemental benefits are an extra benefit paid by a relief association at the same time that a service pension, disability benefit, or survivor benefit is paid. Pensions and benefits are treated as taxable income, and the supplemental benefit is intended to help offset taxes that may be payable on the pension or benefit. The state fully reimburses the relief association for qualified supplemental benefit payments.

The supplemental benefit for service pensions and disability benefits is equal to 10 percent of the pension or benefit amount, up to a maximum of \$1,000. Relief associations are required to pay supplemental benefits to individuals receiving service pensions or disability benefits.

A few years ago, the law changed to allow the recipients of a survivor benefit to receive a higher supplemental benefit amount. Supplemental survivor benefits are equal to 20 percent of the survivor benefit, up to a maximum of \$2,000. Previously, in order to pay a supplemental survivor benefit, a relief association must have authorized the payment. If a relief association did not authorize a supplemental survivor benefit, the recipient of a survivor benefit was ineligible to receive a supplemental benefit payment (i.e., not eligible for the 10 percent supplemental or the 20 percent supplemental benefit).

Now, relief associations must pay a supplemental survivor benefit equal to 20 percent of the survivor benefit, up to a maximum of \$2,000, to authorized recipients of a survivor benefit.

Supplemental survivor benefits may be paid only to the surviving spouse of a deceased active or deferred volunteer firefighter or, if none, to the surviving child or children of a deceased active or deferred volunteer firefighter.

**Effective Date:** May 24, 2013.

**Additional Information:** See the OSA's SOP on Survivor Benefits at: <http://www.auditor.state.mn.us/default.aspx?page=20120315.001>.

**Sample Bylaw Guide**  
See Article VIII, Section 2 (Lump-Sum) or Article IX, Section 2 (Defined Contribution), for sample supplemental survivor benefit language.

## Audit Threshold

The threshold at which a relief association is required to have an audit prepared has been increased from the current \$200,000 threshold to \$500,000.

Beginning with financial reports covering the 2013 calendar year, relief associations with assets or liabilities of at least \$500,000 must submit an audit report to the OSA. The audit report and annual reporting forms are due to the OSA by June 30.

Relief associations with assets and liabilities of \$500,000 or less must submit annual reporting forms. These relief associations need not obtain an audit. The reporting forms are available on the OSA website and are due to the OSA by March 31.

Because the effective date of the threshold change occurred after the 2012 reporting forms and audits were due to the OSA, relief associations that were required to prepare an audit for 2012 are still required to do so. The \$500,000 threshold becomes effective for the 2013 reporting-year.

**Effective Date:** August 1, 2013.

## Withholding Membership Dues from Per-Call Payments

The League of Minnesota Cities spearheaded a proposal to authorize withholding relief association membership dues from firefighters' per-call payments, provided that the firefighter authorizes the deductions through a written contract. This proposal was not acted upon during the 2013 legislative session.

Because 2013 is the first year in the biennium, the Legislature could decide to take action on the proposal when it reconvenes next year. We will continue to keep you informed of any action the Legislature takes regarding this proposal.

**Additional Information:** See the bill text and status at:

<https://www.revisor.mn.gov/bills/bill.php?f=SF1444&y=2013&ssn=0&b=senate>

## Requirement to Report Evidence of Theft

Legislation was signed into law on May 1 requiring local public pension plans, including volunteer fire relief associations, to report evidence of theft or misuse of public funds to the OSA. The legislation clarifies that local public pension plans have the same requirement to report as local government employees and local officials currently have. This bill will help to safeguard pension plan assets and ensure accountability of pension plan administrators to their members and to the public.

**Effective Date:** August 1, 2013.

**Additional Information:** Information on how to report financial concerns to the OSA can be viewed at:

<http://www.auditor.state.mn.us/default.aspx?page=reportingfinancialconcerns>.

## New State Fire Aid Program

A new supplemental state aid program was established to provide additional funding for fire and police retirement plans. Effective for the fiscal year that begins July 1, 2013, an appropriation of \$15,500,000 annually will be made to the new aid program. Of this appropriation, about \$5.5 million will be allocated annually for volunteer fire relief associations and volunteer firefighters covered by the voluntary Statewide Plan administered by the Public Employees Retirement Association (PERA). The remaining amount will be allocated to the PERA police and fire fund and to the state patrol plan administered by the Minnesota State Retirement System.

The supplemental state aid amount that a relief association receives will be equal to the proportionate share that each association currently receives of fire state aid. A relief association becomes eligible to receive supplemental state aid when all reporting requirements are met with the OSA, and the association has satisfied its reporting requirements with other government offices.

**Effective Date:** July 1, 2013.



**Sample Bylaw Guide**

See Article I, Section 5, for sample language that defines the fiscal year.

**Fiscal Year Defined**

The fiscal year for a volunteer fire relief association is defined as beginning on January 1 of each calendar year and ending on December 31 of the same calendar year.

**Effective Date:** May 24, 2013.

**Investment Performance Information**

The OSA is now required annually to provide information to relief associations on the recent and historic investment performance results of the various accounts within the Minnesota State Board of Investment (SBI)'s Supplemental Investment Fund in which associations are eligible to invest. The OSA must also provide relief associations with information about how to utilize the SBI's Supplemental Investment Fund as an investment option.

In addition, the OSA must provide basic information to relief associations on the voluntary Statewide Plan that is administered by the Public Employees Retirement Association.

The information must be provided by the OSA to relief associations on or before March 1. The OSA has the option to provide the information in an electronic format.

**Effective Date:** July 1, 2013.

**Pension Division Staff**

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