



January 2010

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Working Group Update

The 2009-2010 Working Group held its final meeting on Tuesday, January 12. Working Group members reviewed and approved draft legislation for each of the topics that had received consensus in previous meetings. The Group also continued its discussion on survivor benefits. The Working Group members agreed on seven changes that address a variety of survivor benefit issues, including a reorganization of the statute, a slight modification to the order of eligibility for benefit payments, greater flexibility for paying benefits to designated beneficiaries, and allowing the bylaws to limit the duration of payments for monthly plans that pay the benefits for an extended period of time.

The Working Group's recommendations will be forwarded to the Legislative Commission on Pensions and Retirement. We will continue to keep you updated as the Working Group bill makes its way through the legislative process. Working Group meeting materials are available on the Office of the State Auditor's website at:

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

Fundraising Activities

Relief associations and fire departments are separate and distinct from each other, with different rules regarding fundraising and the acceptance of donations. Relief associations should ensure that any fundraisers planned for the upcoming year are advertised and managed correctly. Fire departments have more limited authority in this area than relief associations.

Relief associations are required to maintain control of their own funds, with accounts that are separate from city or town accounts. If a relief association's bylaws permit it, the association may solicit donations or conduct fundraisers. Any fundraising expenses must be paid from the relief association's general fund. Cities and towns, however, have no authority to hold such fundraisers. If a relief association conducts fundraisers, the association should clearly identify itself as the entity conducting the solicitation or fundraiser and state the specific intended purpose for which funds are being raised.

In contrast, a municipal department, such as a fire department, does not have authority to maintain its own funds or to accept donations. Donations made to a fire department are really donations made to the city or town, with a limitation on how the funds may be used.

If a relief association wishes to solicit donations, the relief association should explain clearly whether the donations are for the relief association or for the municipality (designated for the fire department). Any advertisement or solicitation should state clearly whether a donation is for the relief association or for the municipality. Donation checks should not be made out to the fire department. Donation checks should be made out to the relief association, or to the municipality with a designation for the fire department.

For additional information regarding fundraisers and donations, please see the Statement of Position on this topic from the Office of the State Auditor at:

http://www.auditor.state.mn.us/other/Statements/firedeptsfirereliefassnfundraisersdonations_0811_statement.pdf

Information regarding the differences between relief association accounts and municipal fire department accounts can also be found at:

http://www.auditor.state.mn.us/other/Statements/firedeptsfirereliefassnsandacct_0703_statement.pdf

Broker Certification Form Reminder

Many relief associations meet with their broker at this time of year to review the association's investment allocations and investment strategy. As a reminder, relief associations that use the services of a "broker" are required to complete a uniform Broker Certification (BC-1) Form. For purposes of this reporting requirement, a "broker" means a broker, broker-dealer, investment advisor, investment manager, or third-party agent who transfers, purchases, sells, or obtains investment securities for, or on behalf of, a covered pension plan. The BC-1 Form must be completed before a relief association may enter into a business arrangement with a broker, and must be completed annually thereafter. If a relief association uses the services of more than one broker, each broker must complete a BC-1 Form. The signed BC-1 Form should be kept on file with the relief association for public inspection, and a copy should be submitted to the Office of the State Auditor on or before submission of the relief association's annual reporting forms. To assist with this reporting requirement, the BC-1 Form allows information to be typed into the required fields. The BC-1 Form is available on our website at:

http://www.auditor.state.mn.us/forms/pen/ReportingForms/pensionrf_brokercert_volunteer.pdf.

Supplemental Benefit Reimbursements

The deadline is quickly approaching for seeking reimbursement of any supplemental benefits paid during 2009. Supplemental Benefit Reimbursement (SBR) Forms are due to the Minnesota Department of Revenue by February 15, 2010, to receive reimbursement on or about March 15, 2010. Relief associations that submit reimbursement forms to the Department of Revenue after the February 15 filing deadline will be eligible for reimbursement in March 2011.

Copies of the SBR Form, instructions, and a sample form are available on the Department of Revenue's website at:

http://www.taxes.state.mn.us/property_tax_administrators/other_supporting_content/sbrmainpage10.shtml

Relief associations are required to pay a supplemental benefit to each member who receives a lump sum distribution of pension or retirement benefits. The amount of the supplemental benefit is equal to 10 percent of the lump sum distribution, up to a maximum of \$1,000. The supplemental benefit is paid to the retiring member at the same time as the pension distribution. The 10 percent should be calculated based on the pension amount *before* any deferred interest is added. In addition, deferred interest should not be accrued on the supplemental benefit. Supplemental benefits are payable to members who are fully vested as well as to those who are partially vested.

During 2007, the Minnesota Legislature clarified that survivors are only eligible to collect the 20 percent (up to \$2,000) supplemental benefit, and are **NOT** eligible for the regular 10 percent up to \$1,000 supplemental benefit that is available to service pension recipients.

This means that survivors are not eligible to receive a supplemental benefit unless the relief association elects to pay the survivor supplemental benefit amount. A relief association should add language to its bylaws that authorizes the survivor supplemental benefit payments if the association intends to pay a supplemental benefit to a survivor. The Pension Division has sample language that can be used as a reference for relief associations interested in making a bylaw change. Supplemental benefits for survivors may be paid to the surviving spouse or to the surviving minor child or minor children. Survivor supplemental benefits are also reimbursed by the State of Minnesota. Reimbursement for any survivor supplemental benefits paid during 2009 can be sought using the same SBR Form referenced above.

Service Pension Rollovers and Safe Harbor Notices

Minnesota statute provides authority for a relief association that is a qualified plan and that pays a single-payment service pension, at the written request of the retiring member, to directly transfer on an institution-to-institution basis the eligible member's lump-sum service pension to the requesting member's individual retirement account (IRA). In addition, following the death of an active member, the lump-sum survivor benefit may be directly transferred to the surviving spouse's IRA at the written request of the deceased member's surviving spouse. It should be noted that relief associations do not have authority to roll over service pensions or survivor benefits to 401(k) retirement plans.

In addition, relief associations are required under the Internal Revenue Code to provide a safe harbor explanation to recipients of eligible rollover distributions. A safe harbor notice is a written explanation that describes the direct rollover rules, the mandatory income tax withholding rules for distributions not directly rolled over, the tax treatment of distributions not rolled over, and the circumstances when distributions may be subject to different restrictions and tax consequences after being rolled over. For additional information regarding safe harbor notice requirements and sample safe harbor explanations, see Internal Revenue Notice 2009-68 at: http://www.irs.gov/irb/2009-39_IRB/ar14.html.

Large Public Pension Plan Report Released

The Office of the State Auditor has released the Large Public Pension Plan Investment Report. The report reviews the investment performance of Minnesota's large public pension plans for the 2008 calendar year. These pension plans, plus the State Board of Investment (SBI), held over \$38 billion in assets as of December 31, 2008, and represent the retirement savings of hundreds of thousands of public employees. To view the complete report, which includes an Executive Summary and graphs, go to: <http://www.auditor.state.mn.us/default.aspx?page=20100114.002>.

If you have questions please contact us:

Aaron Dahl, Pension Analyst
(651) 297-2765 Aaron.Dahl@state.mn.us

Luke Hinz, Pension Analyst
(651) 296-6279 Lucas.Hinz@state.mn.us

Michael Johnson, Pension Analyst
(651) 282-5430 Michael.A.Johnson@state.mn.us

Sara Toft, Student Intern
(651) 282-5376 SToft@auditor.state.mn.us

Gail Richie, Office & Administrative Specialist
(651) 282-6110 Gail.Richie@state.mn.us

Rose Hennessy Allen, Pension Director
(651) 296-5985 Rose.Hennessy-Allen@state.mn.us