



July 2010

## Pension Division Newsletter

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### *Schedule Form Reminder*

The 2010 Schedule Form for lump-sum volunteer fire relief associations must be certified to the governing body of the affiliated municipality on or before August 1, 2010. Relief associations that are affiliated with an independent nonprofit firefighting corporation should certify the form to the independent board. The 2010 Schedule Form determines the relief association's projected assets and liabilities for 2010, and the minimum required contribution for 2011. The 2010 Schedule Form is available for download from the Office of the State Auditor's website at:

<https://www.auditor.state.mn.us/safes/>.

For more information about required contributions, go to:

[http://www.auditor.state.mn.us/other/Statements/requiredmunicipalcontributions\\_0901.pdf](http://www.auditor.state.mn.us/other/Statements/requiredmunicipalcontributions_0901.pdf).

Once the Schedule Form has been certified, relief associations are encouraged to submit their certified Form to the Office of the State Auditor so that a preliminary review of the data can be conducted later this year.

In addition, the Office of the State Auditor has received questions about what it means when the municipal clerk signs the Schedule Form. By signing the form, the municipal clerk is simply acknowledging receipt of the form and certifying that the city council or town board will be advised of any contribution requirement. When the form is signed, the municipal clerk is not ratifying the benefit level shown on the form. If your relief association is making a benefit level change, your association must bring the bylaw amendment that includes the benefit level change to the city council or town board. The city council or town board can choose to ratify the change or choose not to ratify it. This is a separate process from the Schedule Form certification. Finally, please remember that a city council or a town board cannot unilaterally change, or establish, your relief association's benefit level.

### *Maximum Benefit Levels*

The Maximum Benefit Worksheet (MBW) is a form that lump sum plans, monthly plans, and monthly/lump sum combination plans must complete annually on or before August 1 as part of the certification of the relief association's financial requirements. The MBW averages the relief association's non-investment primary revenue sources for the prior three years on a per-member

basis. The primary revenue sources included in the calculation are the amounts of any state fire aid and municipal contributions received, and ten percent of the relief association's surplus. The average that is calculated corresponds to the maximum benefit level that the relief association is authorized to establish for the year, pursuant to state law. Relief associations face severe penalties, including the forfeiture of state fire aid, if they establish a benefit level higher than the allowable maximum and pay pensions at the unauthorized benefit level.

Because the MBW calculations are a reflection of the relief association's non-investment revenue sources, whether a relief association has a surplus or a deficit only indirectly affects the calculation through the amount included from the ten percent of surplus. In years when markets are performing poorly and the relief association receives large contributions from the municipality, the maximum benefit level most likely will increase, since the relief association's non-investment revenues have increased. In this situation, the increasing maximum benefit amount may give a false impression of the relief association's financial health. Relief associations should keep these calculations in mind when considering benefit increases. Increasing the benefit level to the maximum, even when markets are performing well, oftentimes puts the relief association into a deficit situation and requires contributions from the municipality to support the benefit level.

Some relief associations are finding that their maximum benefit level fell for 2010, and the relief associations may now be operating at a benefit level that is higher than the allowable maximum. There is authority for relief associations to continue operating at a benefit level higher than the allowable maximum if the benefit level was properly adopted and was within the allowable maximum when it was established, and if the decrease to the calculated maximum was due to either a decrease in state fire aid or an increase in the number of active members during the three-year period on which the calculation is based. Relief associations which have seen a decrease in state fire aid during the past three years will qualify to be "grandfathered in." Those associations will be allowed to continue operating at their current benefit level as long as it was within the maximum when established. Relief associations that qualify to be grandfathered in at their current benefit level cannot increase their benefit level until the annual calculation shows that an increase is allowed.

The 2010 Maximum Benefit Worksheet is available for download from the Office of the State Auditor's website at <https://www.auditor.state.mn.us/safes/>.

### ***Investment Study Group***

A provision in the 2010 Omnibus Retirement Bill requires the Office of the State Auditor to convene a group to study investment-related provisions, authorities, and limitations under Minnesota Statutes, chapter 356A, the chapter of state law that governs local public pension plan investment authority. The study group must prepare a report by January 15, 2011, that assesses the effectiveness of current statutory prescriptions, the options for change, and the recommendations for consideration by the governor and the legislature during the 2011 legislative session.

The study group will be comprised of representatives from the large local public pension plans, volunteer fire relief associations, the State Board of Investment, the Pension Commission, and the Office of the State Auditor. The study group's membership will be announced in August.

We tentatively have scheduled study group meetings for Tuesday, August 31, and Thursday, September 9, from 2:00 p.m. to 4:00 p.m. at our Saint Paul office. Additional meetings may be scheduled if needed. Meeting materials will be available on our website, and a link to the materials will be provided in next month's Pension Newsletter. If you have questions about the investment study group or topic suggestions for the group to consider, please contact Rose Hennessy Allen at (651) 296-5985 or at [Rose.Hennessy-Allen@state.mn.us](mailto:Rose.Hennessy-Allen@state.mn.us).

### ***Return-to-Service FAQs***

Answers to several frequently-asked questions about the new return-to-service law are provided below.

- Q:** Our relief association members are concerned that firefighters may return to active service and membership for just a short period of time to take advantage of benefit increases that occurred while they were gone. We want to allow firefighters to resume active membership with our relief association, but we also want to protect our fund. What are our options?
- A:** Relief associations can define in their bylaws whether firefighters who resume active service with the fire department may also resume active membership in the association. If a relief association chooses to allow firefighters to resume active membership, the association can require that returning firefighters remain active for a minimum period of time to receive credit for service performed during their resumption period. This requirement, called the "minimum period of resumption service requirement," is set by your relief association in its bylaws. Your relief association could set a high minimum period of resumption service requirement to prevent firefighters from returning for just a short period of time. If a returning firefighter doesn't remain active long enough to meet the minimum period of resumption service requirement in your bylaws, the firefighter wouldn't be eligible to receive credit for any time served after resuming service and membership. In addition, your relief association defines in its bylaws whether members who don't meet the minimum period of resumption service requirement receive their original benefit level, or your current benefit level, if they are eligible for a service pension based on their original years of service.
- Q:** Our fire department is having trouble with recruitment and retention and is considering rehiring a few retired firefighters. Is there a way that our relief association can help the fire department recruit these firefighters?
- A:** The new return-to-service law helps with recruitment and retention in several ways. First, retired firefighters are no longer required to repay their service pensions if they return to active service with the fire department. Second, your relief association can choose, through its bylaws, to allow these firefighters to also resume active membership in your association. Finally, if a firefighter becomes vested again based on his or her resumption period of service, the firefighter would be eligible for a second pension from your relief association, for the resumption period of service.
- Q:** Our relief association wants to allow firefighters to resume membership upon a resumption of service with the fire department, and doesn't want to penalize firefighters who are only able to return for a relatively short period of time. How can we do this?

- A:** Your relief association can set a low- or no-minimum period of resumption service requirement. Under this scenario, firefighters would receive service credit for all periods of service (both before and after the break) once they have met the minimum period of resumption service requirement in your bylaws, and would receive credit for all years of service at your relief association’s current benefit level.

For more information about the new return-to-service law, visit our 2010 Legislative Update at: [http://www.auditor.state.mn.us/other/PensionDocs/2010\\_Legislative\\_Update.pdf](http://www.auditor.state.mn.us/other/PensionDocs/2010_Legislative_Update.pdf); and see our Statement of Position on this topic 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).

### ***Compliance Helpful Hints***

A new segment that we will periodically include in our Pension Newsletter is a list of helpful hints for avoiding common compliance mistakes. Our goal with this segment is to highlight common mistakes and provide education so that your relief association can be proactive in preventing similar mistakes from occurring.

- **Annuities** – Annuities are not authorized investments for a relief association. Relief associations may only invest in securities that are authorized by Minnesota statute. For information on authorized investments, see our Statement of Position on this topic at: [http://www.auditor.state.mn.us/other/Statements/firereliefinvestmentauthority\\_0907\\_statement.pdf](http://www.auditor.state.mn.us/other/Statements/firereliefinvestmentauthority_0907_statement.pdf).
- **Municipal Reimbursements** – Money received from a city or a town must be deposited into the special fund of a relief association. Sometimes, municipalities reimburse relief associations for expenses paid by the association. These reimbursements must be deposited into the special fund, even if the expenses were paid by the association’s general fund. Having the municipality pay expenses directly will help to avoid instances where your relief association general fund pays for an expense but can’t be reimbursed for it.
- **IRS Penalties** – Special fund assets may only be disbursed for purposes expressly authorized by Minnesota statute. Penalties for late filing with the IRS are not authorized disbursements for a relief association special fund. If your relief association incurs late filing penalties, the penalties must be paid from the relief association general fund or from an alternate revenue source.

### ***Investment Basics – Investment Certificates***

A document is attached entitled “Investment Basics – Investment Certificates.” This is another installment in our ongoing series to provide education on investment topics. This document offers an overview of investment certificates and explains the requirements that must be met for a certificate to be an authorized investment.

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*If you have questions please contact us:*

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## Investment Basics

### Investment Certificates

Recently, our office has seen an increase in the number of relief associations that have invested in investment certificates. It can be difficult to determine whether investment certificates are authorized investments for a relief association because they are very similar to other types of investments and because they are known by various names.

#### *Investment Certificates*

Investment certificates are issued by investment or brokerage firms. Investment certificates are often structured similar to certificates of deposit (CDs) issued by banks, but have some important differences.

An investment certificate is an investment product and therefore is not insured by the Federal Deposit Insurance Corporation (FDIC). An investor could lose the principal. In contrast, CDs are FDIC-insured because they are issued by banks or savings and loan institutions.

Investment certificates offer guaranteed interest rates for a predetermined amount of time, and are sold based on the amount of time they will be held until their maturation date. The interest that the investment certificate offers is usually tied to some investment vehicle, like the Standard and Poor's 500 Index or the current savings account rate. Some investment certificates can be tax deferred, meaning taxes are not paid until the certificate matures. Penalties may be incurred for withdrawing funds before the maturation date.

#### *Investment Authority*

Relief associations must invest under either a "limited" list or an "expanded" list of authorized investment securities, depending upon the association's asset value and whether the association uses the services of an investment advisor or the State Board of Investment.

Certificates of deposit, issued by banks, are specifically authorized investments on both the limited and expanded list of investments. In contrast, investment certificates are not specifically authorized on either list. Arguably, investment certificates could qualify as "corporate obligations" which are authorized on both lists. To qualify on the expanded list, investment certificates would have to:

- Be issued or guaranteed by a U.S. or Canadian corporation;
- Be payable in dollars; and
- Be rated in one of the top four categories by a nationally recognized rating agency.

To qualify on the limited list, the issuing corporation would have to meet the earnings and debt requirements set forth in the statute, and investment certificates themselves would have to be rated in the top three categories by Moody's or Standard and Poors.

Typically, investment certificates marketed to relief associations have not been authorized under either the expanded or limited list of permissible investments.

Information about authorized relief association investments and a summary of the “limited” list and “expanded” list can be found on the Office of the State Auditor’s website at:

[http://www.auditor.state.mn.us/other/Statements/firereliefinvestmentauthority\\_0907\\_statement.pdf](http://www.auditor.state.mn.us/other/Statements/firereliefinvestmentauthority_0907_statement.pdf).

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