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New Laws and Volunteer Fire Relief Associations

By Rebecca Otto, State Auditor

The Omnibus Retirement Bill signed into law by the Governor on May 10 contains a number of provisions that affect volunteer fire relief associations. Most of the changes were based on proposals made by the Volunteer Fire Relief Association Working Group and the Investment Study Group, both of which were convened by the Office of the State Auditor (OSA). The groups' proposals included technical changes that corrected and clarified statutory references and updates to current drafting standards.

How Will the Changes Affect Your Fire Relief Association?

The technical changes in the new law may not require changes to your relief association's bylaws unless they reference specific statutory citations or language. Some of the law changes may require updates to your bylaws. You should compare your bylaw language with the new statutory language to determine whether your relief needs to change or add language to its bylaws. We will update our Selected Relevant Statutes booklet to assist you with this comparison once the 2012 statutes are published.

The OSA's Sample Bylaw Guides, which can also be helpful as a reference, have already been updated to reflect the recent law changes. The bylaw guides are available in both MS Word and Adobe PDF formats on our website. To view the Guides, go to www.osa.state.mn.us: once there, select the menu item "For Local Officials" and click on "Pension Documents." You will find the Guides under the "Sample Bylaw Guides" heading.

Changes in the Investment Authority Statutes

Changes in the investment statutes are likely to impact your relief association's investment policy and your investment authorities and restrictions. A Statement of Position (SOP) entitled Investment Authority for Fire Relief Associations can be found on the OSA website. The Statement explains in detail the authorized investments for volunteer fire

relief associations. Relief association trustees should review the SOP and share the information with their brokers and investment advisors. To view the Statement, go to www.osa.state.mn.us: select the menu item “For Local Officials” and click on “Statements of Position.” You will find the Statement under the “Pensions” heading.

Some of the changes in the investment statutes include:

- Allowing investments to be made through mutual funds, exchange-traded funds, or the State Board of Investment’s Supplemental Fund, as long as the underlying assets conform to the statutory asset-mix limitations;
- Allowing relief associations to invest directly up to five percent of their portfolio in below-investment-grade bonds; and
- Excluding international securities from the “other investments” limitation, but restricting emerging market equity and international debt investments to no more than 15 percent of the relief association’s portfolio.

Municipal Official Signature Requirements

To provide greater flexibility and clarity, requirements have changed for which municipal officials must sign the annual reporting forms submitted by relief associations to the OSA. For purposes of signing the financial reporting form, the definitions of “municipal clerk” and “municipal clerk-treasurer” were expanded to accommodate communities that wanted finance directors or other municipal officials with knowledge of the relief association’s activities to sign. An authorized representative of the entity responsible for paying required contributions to the association must sign the annual certification of minimum financial requirements.

Officer Salaries

Previously, only a relief association’s president, secretary, and treasurer were authorized to receive salaries paid from the association’s Special Fund. The new law gives the relief association authority to pay salaries from the Special Fund to all board members, if the salary amounts are approved by the governing body of the governmental entity that is responsible for paying any required contributions. Municipal approval of the salary amounts is only required for salaries paid to trustees other than the relief association’s officers.

Authorized Special Fund Expenses

The new law provides specific authority to pay filing and application fees (like IRS fees) from a relief association’s Special Fund. The fees must be payable to federal or other governmental entities. Penalties and fines continue to be excluded from the list of authorized Special Fund expenses.

Return to Active Service

Major changes were made during the 2009 legislative session 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. A break in service includes an approved leave of absence. During the 2012 legislative session, additional changes were made to the “return to service” law to further improve it and to accommodate the unique needs of defined-contribution plans.

Highlights of the updated “return to service” law include:

- Firefighters will now receive service credit for time served after returning from a break in service even if they do not meet the minimum period of resumption service requirement. The minimum period of resumption service is a minimum length of service requirement that a relief association can define in its bylaws. The minimum period of resumption service requirement is separate from the vesting requirement that must be met to be eligible for a service pension; and
- A process was added to the statute that clarifies how pensions are handled for members of a defined-contribution plan who return to active service and membership. Defined-contribution plans do not define a minimum period of resumption service. Instead, firefighters receive credits allocated during the resumption period of service (i.e., state fire aid and municipal contribution credits) and deductions, if applicable. Any amounts forfeited from the firefighter’s account are not recoverable. If a firefighter is vested, the firefighter receives a service pension equal to the vested balance of the firefighter’s individual account.

Defined-Contribution Survivor Benefits

A change was made to provide recipients of a survivor benefit the option, if the relief association’s bylaws allow for it, to receive the survivor benefit in installments. This change was made to give recipients of a defined-contribution plan survivor benefit the same payment options as recipients of a defined-benefit plan survivor benefit. In both cases, the relief association’s bylaws must allow for the installment payment option to be chosen.

Deferred Service Pensions

Payment methods are now defined for each deferred-interest option. 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: 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.

Additional Information

Detailed information regarding the 2012 legislative changes can be found in the OSA's 2012 Legislative Update. The Update includes links to SOPs and other helpful information; charts that illustrate the different options and scenarios for calculating pensions of members who return to active service and membership; and references to specific applicable provisions within the Sample Bylaw Guides. The Update can be found on the OSA website by selecting the "Latest News" menu item and then clicking on "Pension Newsletters." You will find the Update under the "2012 Legislative Update" heading.