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New Laws and Volunteer Fire Relief Associations

By Rebecca Otto, State Auditor

The Omnibus Retirement Bill signed into law on May 21, 2014, contains a number of provisions that affect volunteer fire relief associations. Many of the changes were recommended by the Volunteer Fire Relief Association Working Group, which was convened by the Office of the State Auditor (OSA). In addition to changes to law that impact relief associations, the Working Group recommendations included technical recommendations to correct or clarify statutory references and recommendations to update the language to current drafting standards. Additional changes to law occurred that impact relief associations and were not developed by the Working Group. Both the Working Group recommendations and these other changes will be discussed in this Article.

Will We Need to Make Changes to Our Bylaws?

The technical changes may not require changes to your relief association's bylaws, unless your bylaws reference the specific statutory citations or quote language that has been changed. We will update our Selected Relevant Statutes booklet once the 2014 statutes are officially published. The booklet will allow relief associations to compare their bylaw language with the new statutory language to determine if changes are needed.

The OSA's Sample Bylaw Guides, which can also be helpful as a reference, have 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.auditor.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.

Ratification Requirements

The bylaw ratification process was simplified for a relief association affiliated with an independent nonprofit firefighting corporation. Previously, it appeared that any bylaw or

benefit change would need to be ratified by each municipality that contracts with the independent nonprofit firefighting corporation before the change could be effective. Under the new law, a relief association will instead seek ratification of bylaw or benefit changes by the board of the independent nonprofit firefighting corporation.

The independent nonprofit firefighting corporation is the entity responsible for making any required contribution to the relief association. This legislative change ensures the entity responsible for ratifying bylaw and benefit changes is the entity responsible for paying any required contribution.

Supplemental Benefits

Relief associations that pay a lump-sum service pension must also pay a lump-sum supplemental benefit. The supplemental benefit is an amount equal to 10 percent of the service pension, but not to exceed \$1,000. Upon the payment of a lump-sum survivor benefit to a survivor of a deceased active or deferred volunteer firefighter, the supplemental benefit is 20 percent of the survivor benefit, but not to exceed \$2,000. The supplemental survivor benefit is payable to the surviving spouse, or, if none, to the surviving child or children.

The 2014 legislation clarifies that the supplemental benefit amounts are to be based on the pre-tax lump-sum distribution, and exclude any interest that may have been credited during a member's period of deferral.

Below-Investment-Grade Bonds

Relief associations are limited to investing no more than five percent of their portfolios in below-investment-grade bonds. The five-percent limit applies to both the combined total of below-investment-grade bonds held directly and below-investment-grade bonds held through mutual funds and exchange-traded funds. The statute was updated to make it clear the five-percent limit applies to both domestic and international below-investment-grade bonds.

Defined-Contribution Plan Changes

Two provisions within the pension bill pertain specifically to defined contribution plans.

First, the defined-contribution plan statutes were corrected to make it clear that amounts previously forfeited from a member's account remain forfeited and are not reinstated if a member resumes active service and membership under the "return to service" law.

Second, defined contribution plans now have authority to allow ancillary benefit payments to individuals who are not active or deferred. If a defined contribution plan wishes to take advantage of this new statutory authority, the relief association must amend its bylaws to do so. A relief association would need to make a bylaw change if the association wanted to offer ancillary benefits to members who are not active or deferred.

Examples of members who are not active or deferred include members on a break in service or a leave of absence, or members who separated from service before becoming vested and whose accounts have not yet been forfeited. Should a member in one of these categories become disabled or deceased, a relief association's bylaws would need to specifically authorize the payment of a disability or survivor benefit for a benefit to be paid.

Supplemental State Aid

During 2013, a new supplemental state aid program was established to provide additional funding for fire and police retirement plans. An annual appropriation of \$15,500,000 will be made to the new aid program. Of this appropriation, about \$5.5 million will be allocated annually for volunteer firefighter pensions. The remaining amount will be allocated to the police and fire fund administered by the Public Employees Retirement Association and to the state patrol plan administered by the Minnesota State Retirement System.

A drafting error in the 2013 bill caused relief associations affiliated with independent nonprofit firefighting corporations to be excluded from the supplemental state aid distribution. This error was corrected during the 2014 legislative session. Relief associations affiliated with independent nonprofit firefighting corporations will be eligible to receive supplemental state aid when their 2014 fire state aid is disbursed, and will also receive an additional allocation of supplemental state aid to make up for the amounts they did not receive last year because of the error.

SBI Supplemental Investment Fund

Relief associations have authority to invest in various accounts within the Minnesota State Board of Investment (SBI)'s Supplemental Investment Fund (SIF). The SIF currently consists of eight accounts which have different investment objectives designed to meet a wide range of needs and goals. The individual SIF accounts will no longer be named and specified in statute, giving the SBI the ability to add or revise offerings. The SBI has no plans to make changes to the accounts at this time, but may decide to do so in the future.

Dues to the MN Fire Chiefs Association

Payments of fees, dues, and assessments to the Minnesota State Fire Department Association to provide relief association members with membership in and the benefits of this association are allowed to be paid from the special fund. Now, payments of fees, dues, and assessments to the Minnesota State Fire Chiefs Association may also be paid from a relief association's special fund.

Stipend Aid Pilot Program

Legislation passed into law during 2014 as part of the Omnibus Supplemental Tax Bill created a pilot program in 14 Greater Minnesota counties to provide funds for qualified

entities to pay an annual \$500 stipend to certain volunteers who provide services to the qualified entities.

The \$500 stipend is payable in 2015, 2016, and 2017, to qualified volunteers who provide service for the entire prior calendar year. A qualified volunteer is an individual who meets the statutory definition of a volunteer firefighter, a volunteer ambulance attendant, or an emergency medical responder who provides emergency medical services as a volunteer and who has provided such services for an entire year.

The stipend is intended to help with the retention of volunteers. A report is due to the Legislature in January 2018 from the Commission on Public Safety on entities that received aid for the pilot program, including the number of qualified volunteers who received a stipend, and information on the changes in the number of qualified volunteers during the pilot program within the pilot area and in comparison counties.

Additional Information

Detailed information regarding the 2014 legislative changes can be found in the OSA's 2014 Legislative Update. The Update includes links to Statements of Position and other helpful information, and references to specific applicable provisions within the Sample Bylaw Guides. The Update can be found on the OSA website by selecting the "For Local Officials" menu item and then clicking on "Newsletters," and then on "Pension Division Newsletters." You will find the Update under the "2014 Legislative Update" heading.