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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 22, 2015, 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 is annually convened by the Office of the State Auditor (OSA).

The Working Group met five times this season to identify and work through current and pressing relief association issues. Their work culminated in the Working Group bill, which they to the Legislative Commission on Pensions and Retirements (LCPR). In addition to changes to law that impact relief associations, the Working Group bill 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 that were not part of the Working Group bill. Both the Working Group bill and these other changes will be discussed in this Article.

Will Our Relief Association 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. The OSA will update our Selected Relevant Statutes booklet once the 2015 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 bylaw guides are available in both MS Word and Adobe PDF formats on our website. The title page shows the date on which the Guide was last revised. 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.

Multiple Signatures Required

Minnesota law generally requires multiple signatures on checks written by cities, towns,

and counties. In addition to being required by statute, multiple signatures are part of an entity's system of internal controls. When more than one person signs a check, each person is verifying that the governing body has approved the check for payment.

Relief associations are also now required to follow this good-governance practice. Minnesota law requires special fund disbursements paid by check to be signed by the relief association treasurer and at least one other trustee who is designated as a signer by the board of trustees. Electronic or wire funds transfers are also permitted if internal control policies and procedures are established and approved by the board of trustees. The policies and procedures must provide for authentication of the electronic disbursements by the relief association treasurer and at least one other trustee.

Accountant Certification Requirements

Beginning with next year's reporting cycle, a relief association with assets and liabilities of less than \$500,000 will be required to have its financial reporting form attested to by a certified public accountant or the state auditor using a more consistent process as defined in statute. An Agreed-Upon Procedures engagement developed by the OSA will provide minimum procedures and a reporting format that the relief association's certified public accountant will follow during the engagement. Additionally, the certified public accountant performing the engagement must sign the relief association's annual financial reporting form that is filed with the OSA.

Relief Association Membership

Relief association trustees have sought clarity on precisely when membership in a relief association begins. Some fire departments require probationary periods or training periods when a firefighter is first hired. Questions have arisen about whether relief association membership begins on the date a firefighter is hired, for example, or following completion of any required probationary or training period.

Effective January 1, 2016, a firefighter's start date in the relief association will be defined in statute. The definition states that membership in a relief association begins upon the date of hire by a municipality, a joint powers board, or an independent nonprofit firefighting corporation, unless otherwise specified in the relief association bylaws. Relief associations, therefore, may define a different membership start date in their bylaws if they prefer something other than the statutory default.

Maximum Benefit Levels

Statute requires that relief associations with defined-benefit plans (lump-sum, monthly, and monthly/lump-sum combination plans) calculate annually the maximum allowable benefit level. The OSA provides relief associations with a form called the Maximum Benefit Worksheet for performing the calculation. A relief association does not have the statutory authority to set a benefit level higher than the maximum level, even if the benefit level is ratified by the affiliated municipality.

If a relief association pays a service pension using a benefit level that exceeds the maximum allowable benefit level, statute requires that a penalty be imposed. The penalty is disqualification from receiving fire state aid and a requirement that the relief association treasurer recover the amount of the overpaid service pension from any retired firefighter who received an overpayment.

Statute was changed to provide the OSA with discretion to exempt a relief association from the loss of fire state aid if the payment was in error and made in good faith and if certain conditions are met.

Supplemental State Aid

During 2013, a new supplemental state aid program was established to provide additional funding for fire and police retirement plans. An appropriation of about \$5.5 million is allocated annually for volunteer firefighter pensions. The supplemental state aid program was set to expire when the funding ratio of the State Patrol retirement plan or the public employee's police and fire retirement plan reaches 90 percent.

The Omnibus Retirement Bill now makes permanent the supplemental state aid program for volunteer firefighter pensions. The \$5.5 million annual appropriation will not expire unless a future legislature changes the program. This change was not part of the Working Group bill, but was added during the hearing of the Working Group bill by a member of the LCPR.

Payroll Deductions for Relief Association Dues

Several years ago relief associations inquired about setting up an arrangement with their affiliated city or town for membership dues to be withheld from firefighters' per-call payments. Under the arrangement, the city or town would deduct the amount of the relief association membership dues from a firefighter's payment, collect the dues for all participating firefighters, and transmit the collected dues to the association.

The League of Minnesota Cities sought and obtained a change this last session to the Minnesota law on paychecks and wages to allow membership dues of a relief association to be deducted from payroll if an employer and the employee both agree.

Wage Payments

Another change that the League of Minnesota Cities obtained was to permit wages to volunteer firefighters, first responders, volunteer ambulance drivers and attendants, and their employers to be paid less frequently. Generally, employees must be paid at least every 31 days. Now, if an employer and employee mutually agree, the wages can be paid less frequently. This permits volunteer firefighters to be paid on an annual, biannual, or quarterly basis.

Additional Information

Detailed information regarding the 2015 legislative changes will be included in the OSA's 2015 Legislative Update. The Update will contain links to Statements of Position and other helpful information, and references to specific applicable provisions within the Sample Bylaw Guides. The Update will be posted on the OSA website under the "Latest News" menu item in the "Pension Division Newsletters." Click on the "2015 Legislative Update" heading.