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New Legislation on Volunteer Fire Relief Member's Return to Service

By Rebecca Otto, State Auditor

New legislation has changed the way resumption of active service after retirement or a break in service is handled. A break in service includes approved leaves of absence. A volunteer firefighter who returns to the same volunteer fire department from which he or she separated from service may now earn additional credit for service, if the break in service was at least 60 days long and if the bylaws of the fire relief association permit it.

The new law may assist volunteer fire departments, especially those located in Greater Minnesota, recruit and retain volunteer firefighters. First, the new law eliminates the requirement that members repay any previously-received service pension before returning to active service. Second, the law allows the relief association to provide credit for additional service to members who have returned from a break in service, if the bylaws of the relief association permit it.

In addition, the changes provide greater flexibility for volunteer fire relief associations in dealing with return-to-service issues and provide greater clarity to those who must calculate service pensions for members returning from breaks in service.

How the Law Works

The new law provides several options so that each relief association has the flexibility to decide, within the limits of the law, how to handle return to service issues. The content of the bylaws and the decisions of the individual volunteer firefighter determine what benefits will be paid.

Illustration I: Lump Sum

Frostbite Lake Volunteer Fire Relief Association pays a lump sum retirement benefit to its members, who become vested after completing only five years of service. The bylaws allow a member to return to service after a 60-day separation.

After ten years of active service, Joe Goodman fulfilled his dream of living on his boat. He separated from service but was not eligible to receive his pension because he was not yet 50 years old. Joe became a deferred member of the volunteer fire relief association. Sonny Goodman, Joe's 25-year old son and fellow volunteer firefighter, separated from service at the same time to help his father navigate the boat. Sonny was also vested, having completed five years of active service. Unfortunately, Joe's boat sank in the Great Hurricane of 2005, and, penniless, he and his son returned home to Frostbite Lake and resumed their positions as volunteer firefighters and members of the relief association. A year later, Sonny met the love of his life and left Frostbite Lake (and its relief association) to follow her to Sunnyvale.

When Joe and Sonny left service, the benefit level was \$1000 for each year of service. During the time they were gone, the benefit level was raised to \$10,000 for each year of service. Joe and Sonny would like to avail themselves of the increased benefit level.

When new legislation changed the way resumption of service was handled, members of the Frostbite Lake Volunteer Fire Relief Association reviewed their bylaws and expressed a desire to protect their plan from deferred members returning to active service for a short period of time to take advantage of benefit increases that occurred while the member was inactive. Members also acknowledged that Frostbite Lake is always in need of good, experienced firefighters.

To address these issues, the Relief Association amended its bylaws to include a 3-year period of resumption of service, a time period long enough to discourage those interested only in an increased benefit, but short enough to encourage dedicated firefighters to return to service. The Relief Association also decided that, in the future, increases would be smaller and more frequent to minimize the likelihood of a deferred member returning to service just to take advantage of an increase in benefits.

Neither Joe nor Sonny has been paid a lump sum benefit. Both have met the minimum vesting requirement. Joe will serve five years before separating from service again. Joe's lump sum payment will, therefore, be calculated for all years of service at the current benefit level of \$10,000 per year and Joe will receive a lump sum payment of 80% of \$150,000, or \$120,000 (see Attachment A). (Minn. Stat. § 424.02, subd. 2)

Referring again to Attachment A, Sonny's situation is different because he separated from service again after serving only one year. He will not meet the minimum period for resumption of service. Sonny will be paid a lump sum calculated for the original years of service at the original benefit level, with no additional service credit. He will be paid 40% of \$5,000, or \$2,000.

Illustration II: Lump Sum

Another example, using Attachment A, illustrates the new law: Bette Goodworker met the vesting requirements before taking a break in service and was paid a lump-sum benefit. She intended to retire but discovered she missed being a volunteer firefighter. She returned to service after a 60-day separation. Bette was active for an additional five years. When she separated from service for a second time, she was paid 40% of \$50,000, or \$20,000, a lump sum calculated as a separate second benefit at the current benefit level.

Illustration III: Monthly Service Pension

An example, using Attachment B, illustrates the new law as it applies to monthly service pensions: A member met the vesting requirements when first separating from service and a monthly benefit was paid. The member then returned to service after a 60-day break in service. Upon return to service, the monthly benefit payments were suspended. A member cannot resume active service in the fire department as a volunteer firefighter and continue receiving a monthly service pension.

The member was active for at least the minimum period required for resumption of service, as required by the bylaws, before separating from service again. The member could then be paid the original monthly benefit, plus an additional monthly benefit calculated at the current benefit level. Alternatively, if the minimum period of resumption of service had not been met, the original monthly benefit payments would resume, with no additional service credit.

If the monthly benefit had not been paid, the member had met the vesting requirements before the break in service, and served the minimum period for resumption of service, the monthly payment would be calculated for all years of service at the current benefit level. If the minimum period for resumption of service had not been met, the member would be paid a monthly benefit calculated for the original years of service at the current benefit level or, if provided for in the bylaws, at the original benefit level, with no additional service credit.

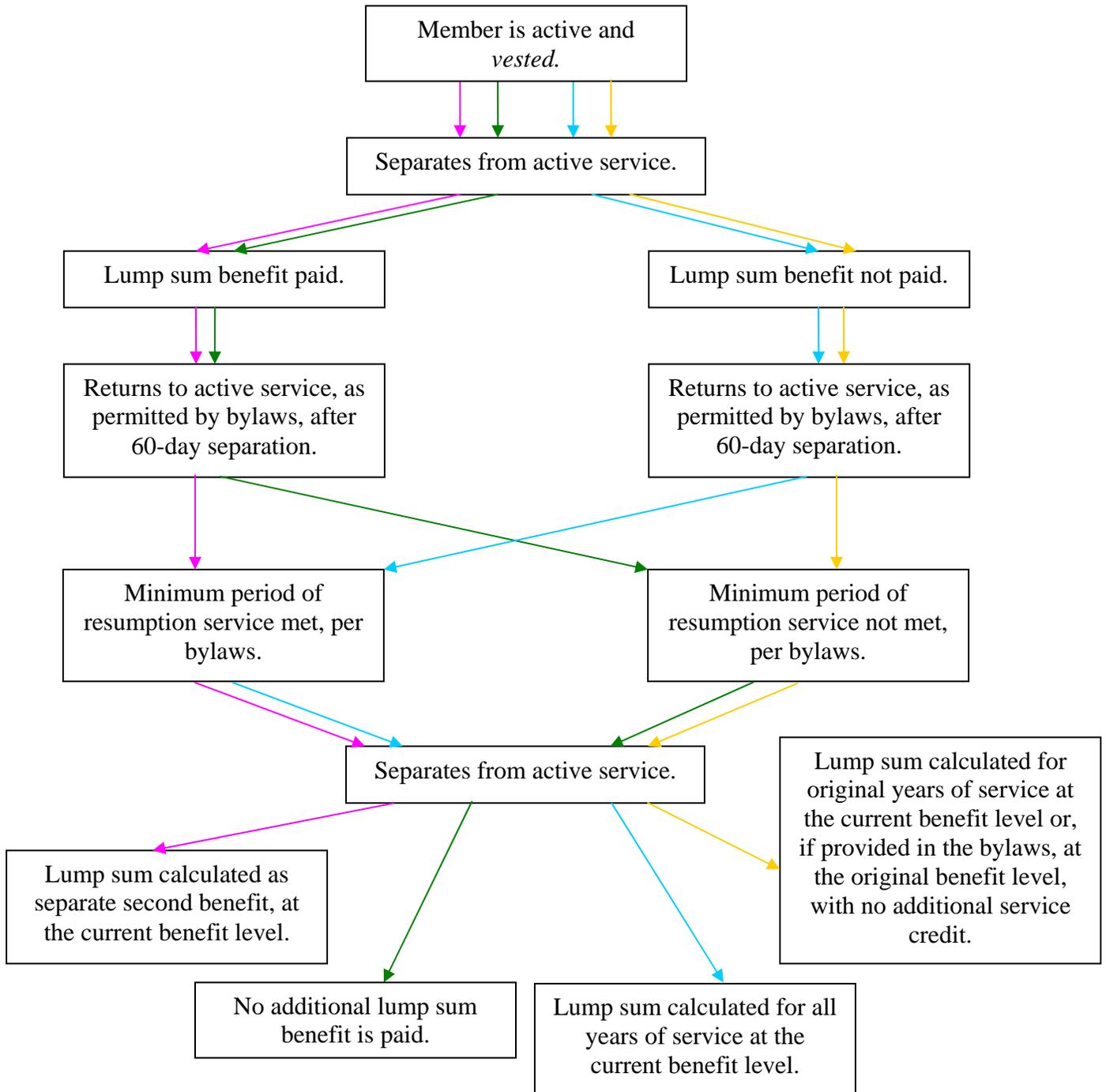
Amending Bylaws to Conform with the New Law

By amending its bylaws, a relief association can choose to allow members who have a break in service to return and resume active membership. The new law requires a 60-day period of separation and allows certain bylaw restrictions, such as requiring a minimum period of resumption of service to receive additional service credit.

To allow members to resume active membership after retirement or a break in service, the bylaws must be amended and the amendment must specify the requirements for accruing additional service credit. Relief associations may establish only those conditions that are consistent with the new law. If a relief association has previously established in its bylaws conditions on return to service, the relief association should promptly review its bylaws to ensure that the conditions comply with the new statutory requirements.

Volunteer Fire Relief Association Return to Service Flow Chart

Lump Sum Service Pensions



Volunteer Fire Relief Associations Return to Service Flow Chart

Monthly Service Pensions

