



State Auditor
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OFFICE OF THE STATE AUDITOR

E-Update

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1. New: Statement of Position for Fire Relief Associations
2. Released: Pension Division Newsletter
3. Avoiding Pitfalls: Age Discrimination and Pension Benefits

1. New: Statement of Position for Fire Relief Associations

A new Statement of Position entitled "Volunteer Fire Departments: The Differences between Municipal Departments and Independent Nonprofit Firefighting Corporations" has been released. The complete Statement can be viewed at:

<http://www.auditor.state.mn.us/default.aspx?page=20120224.003>.

2. Released: Pension Division Newsletter

The **Pension Newsletter** was released this week. It provides information on the board-set return deferred interest option and on the new sample bylaw guide. The Newsletter also contains updates on the Working Group and Investment Study Group.

The complete Newsletter can be viewed at:

<http://www.auditor.state.mn.us/default.aspx?page=pensionDocs>.

3. Avoiding Pitfalls: Age Discrimination and Pension Benefits

Volunteer fire relief associations should be cautious about implementing bylaw benefit provisions in which a member's age is the sole determinant for eligibility of the benefit. While relief associations have authority to require that members meet a minimum retirement age before drawing pension benefits, denying a benefit when a member reaches a certain age may be problematic.

As an example, consider the following: Joe and Sue begin firefighting service on the same day and separate from active service on the same day. The only difference is their age; Joe is 54 years old when he separates from active service, and Sue is 60. The relief association's bylaws prohibit volunteer firefighters over the age of 55 from accruing service credit. Therefore, under the relief association's bylaws, Joe will receive five more years of service credit than Sue; and age is the sole reason for the difference.

Denial of retirement benefits where the sole basis for the denial is age is age discrimination, under a ruling in a recent Eighth Circuit Court of Appeals case. *See EEOC v. Minnesota Dep't of Corrections*, 648 F.3d 910 (2011). Relief associations should consult their attorneys for guidance on how this case could affect their associations.

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