

Exhibit B

Issue:

Relief association trustees and members have expressed a desire to change the payment order for survivor benefits for a variety of reasons (trusts as beneficiaries, spouse at time of death vs. at time of separation issues, relief associations having to find any possible surviving children of the former member, and others).

Current Law:

Currently, survivor benefits must be paid to the surviving spouse and surviving children. If there is no surviving spouse and there are no surviving children, the benefit is paid to the designated beneficiary. If there are no survivors and there is no designated beneficiary, the benefit is paid as a death benefit to the estate of the deceased *active* or *deferred* firefighter. If a retired firefighter receiving monthly benefits passes away and there is no surviving spouse, no surviving children, and no designated beneficiary, the benefit payments cease.

Options:

At the last meeting, the Working Group discussed changing the order of payment for survivor benefits so that benefits could be paid directly to a designated beneficiary. This change raised cost concerns that are unique to the monthly and monthly/lump sum plans. The following changes are proposed based on our discussions during the last meeting and with the monthly and monthly/lump sum plans:

1. Leave the order of payment for survivor benefits as it currently is in statute.
2. Add language that would allow a spouse to waive his or her right to the survivor benefit if there are no surviving children, so that the benefit could be paid directly to a designated beneficiary. (Option #1 on pages 4 and 5)
3. Add language that would allow monthly and monthly/lump sum plans to limit the duration of survivor benefit payments so that the total distribution doesn't exceed the actuarially-determined value of the member's service pension. (Option #2 on page 4)
4. Remove the definition of a "surviving spouse" to address concerns among the monthly plans about the timing of when a spouse is defined (at the time of the member's separation or at the time of the member's death). (Page 5)
5. Add language that would allow the survivor benefit to be paid to a trust if the trust is payable to the surviving children and there is no surviving spouse. (Option #3, Pages 4 and 5)
6. Reorganize the statute so that the authorization to pay survivor benefits is separate from the benefit eligibility and calculation requirements.

Optional Changes:

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

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Subd. 3. Authorized disbursements from the special fund.

(a) Disbursements from the special fund may not be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits if authorized and paid under law and specified in amount in the bylaws governing the relief association ~~to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid under law and specified in amount in the bylaws governing the relief association;~~

(4) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

(6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump sum volunteer fire relief association, or for a combination lump sum and monthly benefit volunteer fire relief association where a lump sum service pension has been elected by or a lump sum benefit is~~

~~payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.~~

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424A.02 DEFINED BENEFIT RELIEF ASSOCIATIONS; SERVICE PENSIONS.

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Subd. 9. Limitation on ancillary benefits.

A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

(3) If a survivor benefit is payable, the benefit must be paid to (i) the surviving spouse and surviving child or children of the deceased firefighter; (ii) or if no

surviving spouse and no surviving children, to designated beneficiaries of the deceased firefighter; (iii) and if no designation has been made, the survivor benefit must be paid in the form of a death benefit to the estate of the deceased active or deferred firefighter. [OPTION #1] If there are no children, a firefighter's spouse may waive in writing any right to the survivor benefit, so that the benefit is payable to the deceased firefighter's designated beneficiaries.

(4) [OPTION #2] For purposes of this section, the duration of survivor benefit payments may be limited by the relief association bylaws so that the total survivor benefit distribution does not exceed the actuarially-determined value of the deceased firefighter's service pension if the deceased firefighter elected a monthly benefit service pension or where a monthly benefit is payable.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B. [OPTION #3] If a deceased firefighter had established a trust under chapter 501B as authorized by this section and there is no surviving spouse but there is a surviving child or children, and if the trust was designated as the deceased firefighter's beneficiary and the trust is payable to the surviving child or children, the survivor benefit may be paid to the trust notwithstanding any requirements of this section.

424A.016 DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.

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Subd. 7. Limitation on ancillary benefits.

(a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested or nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c) If a survivor benefit is payable, the benefit must be paid to (i) the surviving spouse and surviving child or children of the deceased firefighter; (ii) or if no surviving spouse and no surviving children, to designated beneficiaries of the deceased firefighter; (iii) and if no designation has been made, the survivor benefit must be paid in the form of a death benefit to the estate of the deceased active or deferred firefighter. [OPTION #1] If there are no children, a firefighter's spouse may waive in writing any right to the survivor benefit, so that the benefit is payable to the deceased firefighter's designated beneficiaries.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a designated beneficiary may be a trust created under chapter 501B. [OPTION #3] If a deceased firefighter had established a trust under chapter 501B as authorized by this section and there is no surviving spouse but there is a surviving child or children, and if the trust was designated as the deceased firefighter's beneficiary and the trust is payable to the surviving child or children, the survivor benefit may be paid to the trust notwithstanding any requirements of this section.

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424A.001 DEFINITIONS.

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~~Subd. 6. Surviving spouse.~~

~~For purposes of this chapter, and the bylaws governing a relief association to which this chapter applies, "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.~~

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