Minnesota Volunteer Firefighter Relief Associations

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Minnesota Statutes
Chapter 6
State Auditor
(§§ 6.495, .67 & .72)
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6.495 EXAMINATION OF FIRE AND POLICE RELIEF ASSOCIATIONS.

Subdivision 1. Audit and examinations. All powers and duties conferred and imposed upon the state auditor with respect to state, county, and first-class city officers, institutions, and property are hereby extended to the various fire and police relief associations in the state. The state auditor shall annually audit the special and general funds of the relief association or, at the request of the board of trustees or the municipality, the state auditor may contract for an annual audit by a certified public accountant. The state auditor may determine that an annual audit is not necessary, in which case the state auditor shall develop a plan for examination of unaudited relief associations, and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same.

Copies of the written report of the state auditor on the financial condition and accounts of the relief association shall be filed with the board of trustees of the relief association and the governing body of the municipality associated with the relief association. If the report discloses malfeasance, misfeasance, or nonfeasance with regard to relief association funds, copies thereof shall be filed with the city attorney or county attorney in the city or county in which the relief association is located, and these officials of the law shall institute proceedings, civil or criminal, as the law and public interest require.

Subd. 2. [Repealed, 1987 c 404 s 191]

Subd. 3. Report to commissioner of revenue. The state auditor shall file with the commissioner of revenue a financial compliance report certifying for each relief association:

(1) the completion of the annual financial report required pursuant to section 69.051 and the auditing or certification of those financial reports pursuant to subdivision 1; and
(2) the receipt of any actuarial valuations required pursuant to section 69.77 or 69.773.

History: 1986 c 359 s 2

6.67 PUBLIC ACCOUNTANTS; REPORT OF POSSIBLE MISCONDUCT.

Whenever a public accountant in the course of auditing the books and affairs of a political subdivision or a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A or 424A, discovers evidence pointing to nonfeasance, misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties and affairs, the public accountant shall promptly make a report of such discovery to the state auditor and the county attorney of the county in which the governmental unit is situated and the public accountant shall also furnish a copy of the report of audit upon completion to said officers. The county attorney shall act on such report in the same manner as required by law for reports made to the county attorney by the state auditor.

History: 1957 c 631 s 4; 1959 c 518 s 6; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1986 c 444; 1Sp2003 c 1 art 2 s 11; 2008 c 349 art 14 s 1; 2008 c 200 s 15; 2009 c 86 art 1 s 3; 2010 c 359 art 12 s 1; 1Sp2011 c 8 art 8 s 1,14
6.72 STATE AUDITOR; REPORT TO LEGISLATURE ON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

Subdivision 1. Reporting requirements. (a) Annually, the state auditor shall report to the legislature on the general financial condition of the various volunteer firefighters' relief associations in the state as of December 31 of the year preceding the filing of the report.

(b) Two copies of the report shall be filed with the executive director of the Legislative Commission on Pensions and Retirement and the report shall be filed with the director of the Legislative Reference Library as provided by section 3.195.

Subd. 2. Contents of report. The report must include for all volunteer firefighters' relief associations directly associated with the municipal fire departments and all volunteer firefighters' relief associations subsidiary to independent nonprofit firefighting corporations, the following:

1. amount of accrued liability,
2. amount of the assets of the special fund,
3. amount of surplus or unfunded accrued liability,
4. funding ratio,
5. amount of annual accruing liability or normal cost,
6. amount of annual required contribution to amortize the unfunded accrued liability,
7. amount of total required contribution,
8. amount of fire state aid and supplemental fire state aid,
9. amount of any municipal contributions,
10. amount of administrative expenses,
11. amount of service pension disbursements,
12. amount of other retirement benefit disbursements,
13. number of active members,
14. number of retired members,
15. number of deferred members,
16. amount of fidelity bond of secretary and treasurer,
17. amount of lump sum or monthly service pension accrued per year of service credit,
18. minimum retirement age required for commencement of a service pension,
19. minimum years of active service credit required for commencement of service pension,
20. minimum years of active membership credit required for commencement of service pension,

and

21. type and amount of other retirement benefits.

Subd. 3. Report format. The report required by this section must be organized in a manner that the state auditor determines to provide fair representation of the condition of the various volunteer firefighters' relief associations.

History: 1979 c 201 s 20; 1986 c 359 s 3,26; 2006 c 271 art 13 s 1; 2009 c 32 s 4
Minnesota Statutes
Chapter 13D

Open Meeting Law

(§§ 13D.01, .015, & .04 - .06)
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13D.01 MEETINGS MUST BE OPEN TO THE PUBLIC; EXCEPTIONS.

Subdivision 1. In executive branch, local government. All meetings, including executive sessions, must be open to the public
(a) of a state
(1) agency,
(2) board,
(3) commission, or
(4) department, when required or permitted by law to transact public business in a meeting;
(b) of the governing body of a
(1) school district however organized,
(2) unorganized territory,
(3) county,
(4) statutory or home rule charter city,
(5) town, or
(6) other public body;
(c) of any
(1) committee,
(2) subcommittee,
(3) board,
(4) department, or
(5) commission, of a public body; and
(d) of the governing body or a committee of:
(1) a statewide public pension plan defined in section 356A.01, subdivision 24; or
(2) a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A.

Subd. 2. Exceptions. This chapter does not apply
(1) to meetings of the commissioner of corrections;
(2) to a state agency, board, or commission when it is exercising quasi-judicial functions involving disciplinary proceedings; or
(3) as otherwise expressly provided by statute.

Subd. 3. Subject of and grounds for closed meeting. Before closing a meeting, a public body shall state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.

Subd. 4. Votes to be kept in journal. (a) The votes of the members of the state agency, board, commission, or department; or of the governing body, committee, subcommittee, board, department, or commission on an action taken in a meeting required by this section to be open to the public must be recorded in a journal kept for that purpose.
(b) The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

Subd. 5. Public access to journal. The journal must be open to the public during all normal business hours where records of the public body are kept.
Subd. 6. **Public copy of members' materials.** (a) In any meeting which under subdivisions 1, 2, 4, and 5, and section 13D.02 must be open to the public, at least one copy of any printed materials relating to the agenda items of the meeting prepared or distributed by or at the direction of the governing body or its employees and:

1. distributed at the meeting to all members of the governing body;
2. distributed before the meeting to all members; or
3. available in the meeting room to all members;

shall be available in the meeting room for inspection by the public while the governing body considers their subject matter.

(b) This subdivision does not apply to materials classified by law as other than public as defined in chapter 13, or to materials relating to the agenda items of a closed meeting held in accordance with the procedures in section 13D.03 or other law permitting the closing of meetings.

**History:** 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1, 3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2, 3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 1Sp2001 c 10 art 4 s 1; 2010 c 359 art 12 s 3; 1Sp2011 c 8 art 8 s 2, 14

### 13D.015 MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS.

Subdivision 1. **Application.** This section applies to:

1. a state agency, board, commission, or department, and a statewide public pension plan defined in section 356A.01, subdivision 24; and
2. a committee, subcommittee, board, department, or commission of an entity listed in clause (1).

Subd. 2. **Conditions.** An entity listed in subdivision 1 may conduct a meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, by telephone or other electronic means so long as the following conditions are met:

1. all members of the entity participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;
2. members of the public present at the regular meeting location of the entity can hear all discussion and all votes of members of the entity and participate in testimony;
3. at least one member of the entity is physically present at the regular meeting location; and
4. all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Subd. 3. **Quorum; participation.** Each member of the entity participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 4. **Monitoring from remote site; costs.** If telephone or another electronic means is used to conduct a meeting, the entity, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The entity may require the person making a connection to pay for documented marginal costs that the entity incurs as a result of the additional connection.

Subd. 5. **Notice.** If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the entity shall provide notice of the regular meeting location, of the fact that some
members may participate by electronic means, and of the provisions of subdivision 4. The timing and 
method of providing notice is governed by section 13D.04. In addition, the entity must post the notice on 
its Web site at least ten days before any regular meeting as defined in section 13D.04, subdivision 1.

History: 2009 c 80 s 1; 2012 c 290 s 63

13D.04 NOTICE OF MEETINGS.

Subdivision 1. Regular meetings. A schedule of the regular meetings of a public body shall be 
kept on file at its primary offices. If a public body decides to hold a regular meeting at a time or place 
different from the time or place stated in its schedule of regular meetings, it shall give the same notice of 
the meeting that is provided in this section for a special meeting.

Subd. 2. Special meetings. (a) For a special meeting, except an emergency meeting or a special 
meeting for which a notice requirement is otherwise expressly established by statute, the public body 
shall post written notice of the date, time, place, and purpose of the meeting on the principal bulletin 
board of the public body, or if the public body has no principal bulletin board, on the door of its usual 
meeting room.

(b) The notice shall also be mailed or otherwise delivered to each person who has filed a written 
request for notice of special meetings with the public body. This notice shall be posted and mailed or 
delivered at least three days before the date of the meeting.

(c) As an alternative to mailing or otherwise delivering notice to persons who have filed a written 
request for notice of special meetings, the public body may publish the notice once, at least three days 
before the meeting, in the official newspaper of the public body or, if there is none, in a qualified 
newspaper of general circulation within the area of the public body's authority.

(d) A person filing a request for notice of special meetings may limit the request to notification of 
meetings concerning particular subjects, in which case the public body is required to send notice to that 
person only concerning special meetings involving those subjects.

(e) A public body may establish an expiration date for requests for notices of special meetings 
pursuant to this subdivision and require refiling of the request once each year.

(f) Not more than 60 days before the expiration date of a request for notice, the public body shall 
send notice of the refiling requirement to each person who filed during the preceding year.

Subd. 3. Emergency meetings. (a) For an emergency meeting, the public body shall make good 
faith efforts to provide notice of the meeting to each news medium that has filed a written request for 
notice if the request includes the news medium's telephone number.

(b) Notice of the emergency meeting shall be given by telephone or by any other method used to 
notify the members of the public body.

(c) Notice shall be provided to each news medium which has filed a written request for notice as 
soon as reasonably practicable after notice has been given to the members.

(d) Notice shall include the subject of the meeting. Posted or published notice of an emergency 
meeting is not required.

(e) An "emergency" meeting is a special meeting called because of circumstances that, in the 
judgment of the public body, require immediate consideration by the public body.

(f) If matters not directly related to the emergency are discussed or acted upon at an emergency 
meeting, the minutes of the meeting shall include a specific description of the matters.
13D.04, Subd. 3

(g) The notice requirement of this subdivision supersedes any other statutory notice requirement for a special meeting that is an emergency meeting.

Subd. 4. **Recessed or continued meetings.** (a) If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.

(b) For purposes of this subdivision, the term "meeting" includes a public hearing conducted pursuant to chapter 429 or any other law or charter provision requiring a public hearing by a public body.

Subd. 5. **Closed meetings.** The notice requirements of this section apply to closed meetings.

Subd. 6. **State agencies.** For a meeting of an agency, board, commission, or department of the state:

(1) the notice requirements of this section apply only if a statute governing meetings of the agency, board, or commission does not contain specific reference to the method of providing notice; and

(2) all provisions of this section relating to publication are satisfied by publication in the State Register.

Subd. 7. **Actual notice.** If a person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this section are satisfied with respect to that person, regardless of the method of receipt of notice.

**History:** 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2

**13D.05 MEETINGS HAVING DATA CLASSIFIED AS NOT PUBLIC.**

Subdivision 1. **General principles.** (a) Except as provided in this chapter, meetings may not be closed to discuss data that are not public data.

(b) Data that are not public data may be discussed at a meeting subject to this chapter without liability or penalty, if the disclosure relates to a matter within the scope of the public body's authority and is reasonably necessary to conduct the business or agenda item before the public body.

(c) Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

(d) All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

Subd. 2. **When meeting must be closed.** (a) Any portion of a meeting must be closed if expressly required by other law or if the following types of data are discussed:

(1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

(2) active investigative data as defined in section 13.82, subdivision 7, or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision;
Subd. 3. What meetings may be closed. (a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

(c) A public body may close a meeting:
(1) to determine the asking price for real or personal property to be sold by the government entity;
(2) to review confidential or protected nonpublic appraisal data under section 13.44, subdivision 3; and
(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this paragraph was transacted at a closed meeting held under this paragraph during the time when the tape is not available to the public, section 13D.03, subdivision 3, applies.

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.

(d) Meetings may be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses.

Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body, and the recording must be preserved for at least four years.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 1999 c 227 s.
13D.06 CIVIL FINES; FORFEITURE OF OFFICE; OTHER REMEDIES.

Subdivision 1. **Personal liability for $300 fine.** Any person who intentionally violates this chapter shall be subject to personal liability in the form of a civil penalty in an amount not to exceed $300 for a single occurrence, which may not be paid by the public body.

Subd. 2. **Who may bring action; where.** An action to enforce the penalty in subdivision 1 may be brought by any person in any court of competent jurisdiction where the administrative office of the governing body is located.

Subd. 3. **Forfeit office if three violations.** (a) If a person has been found to have intentionally violated this chapter in three or more actions brought under this chapter involving the same governing body, such person shall forfeit any further right to serve on such governing body or in any other capacity with such public body for a period of time equal to the term of office such person was then serving.

(b) The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations, issue its order declaring the position vacant and notify the appointing authority or clerk of the governing body.

(c) As soon as practicable thereafter the appointing authority or the governing body shall fill the position as in the case of any other vacancy.

Subd. 4. **Costs; attorney fees; requirements; limits.** (a) In addition to other remedies, the court may award reasonable costs, disbursements, and reasonable attorney fees of up to $13,000 to any party in an action under this chapter.

(b) The court may award costs and attorney fees to a defendant only if the court finds that the action under this chapter was frivolous and without merit.

(c) A public body may pay any costs, disbursements, or attorney fees incurred by or awarded against any of its members in an action under this chapter.

(d) No monetary penalties or attorney fees may be awarded against a member of a public body unless the court finds that there was an intent to violate this chapter.

(e) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this section if the public body that is the defendant in the action was also the subject of a prior written opinion issued under section 13.072, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not act in conformity with the opinion. The court shall give deference to the opinion in a proceeding brought under this section.

**History:** 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 2008 c 335 s 2
Minnesota Statutes
Chapter 69

Fire and Police Department Aid; Relief Associations

(§§ 69.031, .051, & .77 - .80)
69.031 COMMISSIONER OF MANAGEMENT AND BUDGET; WARRANT, APPROPRIATION, PAYMENT AND ADMINISTRATION.

Subdivision 1. **Commissioner's warrant.** (a) The commissioner of management and budget shall issue to the Public Employees Retirement Association on behalf of a municipality or independent nonprofit firefighting corporation that is a member of the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G or to the county, municipality, or independent nonprofit firefighting corporation certified to the commissioner of management and budget by the commissioner a warrant for an amount equal to the amount of fire state aid or police state aid, whichever applies, certified for the applicable state aid recipient by the commissioner under section 69.021.

(b) The amount of state aid due and not paid by October 1 accrues interest at the rate of one percent for each month or part of a month the amount remains unpaid after October 1.

Subd. 2. [Repealed, 1Sp1985 c 13 s 376]

Subd. 3. **Appropriations.** There is hereby appropriated annually from the state general fund to the commissioner of revenue an amount sufficient to make the police and fire state aid payments specified in this section and section 69.021.

Subd. 4. [Repealed, 1Sp1986 c 1 art 4 s 48]

Subd. 5. **Deposit of state aid.** (a) If the municipality or the independent nonprofit firefighting corporation is covered by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the executive director shall credit the fire state aid against future municipal contribution requirements under section 353G.08 and shall notify the municipality or independent nonprofit firefighting corporation of the fire state aid so credited at least annually. If the municipality or the independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, the municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If the municipality or independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, if there is no relief association organized, or if the association has dissolved or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury and the money may be disbursed only for the purposes and in the manner set forth in section 424A.08 or for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

1. For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

2. For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to
the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid toward the commission's employer contribution for police officers to the public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of management and budget for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision 2b, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and management and budget the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of management and budget the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

Subd. 6. [Repealed, 1984 c 592 s 94]

History: 1969 c 399 s 1; 1969 c 1001 s 4; 1971 c 695 s 3,4; Ex1971 c 6 s 8; 1973 c 492 s 14; 1976 c 315 s 7; 1977 c 429 s 9,63; 1981 c 68 s 9; 1981 c 224 s 20,21; 1Sp1981 c 4 art 1 s 59; 1982 c 424 s 15; 1984 c 558 art 1 s 9; 1984 c 655 art 2 s 12 subd 1; 1Sp1985 c 13 s 192; 1986 c 359 s 8; 1986 c 444; 1Sp1986 c 1 art 4 s 5,6; 1988 c 719 art 2 s 5; 1989 c 319 art 6 s 2; art 19 s 2; 1992 c 396 s 3; 1994 c 632 art 3 s 48; 1996 c 390 s 29,30; 1997 c 233 art 1 s 13; 1997 c 241 art 1 s 9-11; 1999 c 222
69.051 FINANCIAL REPORT, BOND, EXAMINATION.

Subdivision 1. Financial report and audit. (a) The board of each salaried firefighters relief association, police relief association, and volunteer firefighters relief association as defined in section 424A.001, subdivision 4, with assets of at least $200,000 or liabilities of at least $200,000 in the prior year or in any previous year, according to the applicable actuarial valuation or financial report if no valuation is required, shall prepare a financial report covering the special and general funds of the relief association for the preceding fiscal year, file the financial report, and submit financial statements.

(b) The financial report must contain financial statements and disclosures which present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in compliance with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial report must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief association is a firefighters relief association which is directly associated with a municipal fire department or is a police relief association; or

(2) by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the volunteer firefighter relief association is a subsidiary of an independent nonprofit firefighting corporation and by the secretary of the independent nonprofit firefighting corporation; or

(3) by the chief financial official of the county in which the volunteer firefighter relief association is located or primarily located if the relief association is associated with a fire department that is not located in or associated with an organized municipality.

(c) The financial report must be retained in its office for public inspection and must be filed with the governing body of the government subdivision in which the associated fire department is located after the close of the fiscal year. One copy of the financial report must be furnished to the state auditor after the close of the fiscal year.

(d) Audited financial statements must be attested to by a certified public accountant or the state auditor and must be filed with the state auditor within 180 days after the close of the fiscal year. The state auditor may accept this report in lieu of the report required in paragraph (c).

Subd. 1a. Financial statement. (a) The board of each volunteer firefighters relief association, as defined in section 424A.001, subdivision 4, that is not required to file a financial report and audit under subdivision 1 must prepare a detailed statement of the financial affairs for the preceding fiscal year of the relief association's special and general funds in the style and form prescribed by the state auditor. The detailed statement must show the sources and amounts of all money received; all disbursements, accounts payable and accounts receivable; the amount of money remaining in the treasury; total assets including a listing of all investments; the accrued liabilities; and all items necessary to show accurately the revenues and expenditures and financial position of the relief association.

(b) The detailed financial statement required under paragraph (a) must be certified by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the examination shall give an opinion as to the condition of the special and general funds of the relief
association, and shall comment upon any exceptions to the report. The independent accountant or
auditor must have at least five years of public accounting, auditing, or similar experience, and must not
be an active, inactive, or retired member of the relief association or the fire or police department.

(c) The detailed statement required under paragraph (a) must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality; or

(2) where applicable, by the municipal clerk or clerk-treasurer of the largest municipality in
population which contracts with the independent nonprofit firefighting corporation if the relief
association is a subsidiary of an independent nonprofit firefighting corporation and by the secretary of
the independent nonprofit firefighting corporation; or

(3) by the chief financial official of the county in which the volunteer firefighter relief association
is located or primarily located if the relief association is associated with a fire department that is not
located in or associated with an organized municipality.

(d) The volunteer firefighters' relief association board must file the detailed statement required
under paragraph (a) in the relief association office for public inspection and present it to the city council
within 45 days after the close of the fiscal year, and must submit a copy of the detailed statement to the
state auditor within 90 days of the close of the fiscal year.

Subd. 1b. Qualification. The state auditor may, upon a demonstration by a relief association of
hardship or inability to conform, extend the deadline for reports under subdivisions 1 or 1a, but not
beyond November 30th following the due date. If the reports are not received by November 30th, the
municipality or relief association will forfeit its current year state aid, and until the state auditor receives
the required information, the relief or municipality will be ineligible to receive any future state aid. A
municipality or police or firefighters' relief association shall not qualify initially to receive, or be entitled
subsequently to retain, state aid pursuant to this chapter if the financial reporting requirement or the
applicable requirements of this chapter or any other statute or special law have not been complied with
or are not fulfilled.

Subd. 1c. [Repealed, 2007 c 148 art 2 s 84]

Subd. 2. Treasurers bond. No treasurer of a relief association governed by section 69.77 shall
enter upon duties without having given the association a bond in a reasonable amount acceptable to the
municipality for the faithful discharge of duties according to law. No treasurer of a relief association
governed by sections 69.771 to 69.775 shall enter upon the duties of the office until the treasurer has
given the association a good and sufficient bond in an amount equal to at least ten percent of the assets
of the relief association; however, the amount of the bond need not exceed $500,000.

Subd. 3. Report by certain municipalities. (a) Each municipality which has an organized fire
department but which does not have a firefighters' relief association governed by section 69.77 or
sections 69.771 to 69.775 and which is not exempted under paragraph (b) shall annually prepare a
detailed financial report of the receipts and disbursements by the municipality for fire protection service
during the preceding calendar year, on a form prescribed by the state auditor. The financial report must
contain any information which the state auditor deems necessary to disclose the sources of receipts and
the purpose of disbursements for fire protection service. The financial report must be signed by the
municipal clerk or clerk-treasurer of the municipality. The financial report must be filed by the
municipal clerk or clerk-treasurer with the state auditor on or before July 1 annually. The municipality
shall not qualify initially to receive, or be entitled subsequently to retain, state aid under this chapter if
the financial reporting requirement or the applicable requirements of this chapter or any other statute or
special law have not been complied with or are not fulfilled.

(b) Each municipality that has an organized fire department and provides retirement coverage to its
firefighters through the voluntary statewide lump-sum volunteer firefighter retirement plan under
chapter 353G qualifies to have fire state aid transmitted to and retained in the statewide lump-sum volunteer firefighter retirement fund without filing a detailed financial report if the executive director of the Public Employees Retirement Association certifies compliance by the municipality with the requirements of sections 353G.04 and 353G.08, paragraph (e), and by the applicable fire chief with the requirements of section 353G.07.

Subd. 4. **Notification by commissioner and state auditor.** (a) The state auditor in performing an audit or examination shall notify the Legislative Commission on Pensions and Retirement if the audit or examination reveals malfeasance, misfeasance, or nonfeasance in office.

(b) The commissioner shall notify the Legislative Commission on Pensions and Retirement if the state auditor has not filed the required financial compliance reports by July 1.

**History:**  
1969 c 1001 s 5; 1971 c 695 s 6; Ex1971 c 6 s 9; 1973 c 492 s 7; 1977 c 429 s 63; 1981 c 224 s 22,274; 1982 c 460 s 3,4; 1983 c 113 s 2,3; 1986 c 359 s 9; 1986 c 444; 1993 c 86 s 1; 1997 c 241 art 10 s 1-3; 1Sp2005 c 8 art 9 s 1,2; 2010 c 359 art 6 s 1; 2012 c 286 art 12 s 2-4

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**69.77 BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION.**

Subdivision 1. **Conditioned employer support for a relief association.** (a) Notwithstanding any law to the contrary, only if the municipality and the relief association comply with the provisions of this section, a municipality may contribute public funds, including any applicable police or fire state aid, or levy property taxes for the support of a police or firefighters' relief association, enumerated in subdivision 1a, however organized, which provides retirement coverage or pays a service pension to a retired police officer or firefighter or a retirement benefit to a surviving dependent of either an active or retired police officer or firefighter, for the operation and maintenance of the relief association.

(b) The commissioner shall not include in the apportionment of police or fire state aid to the county auditor under section 69.021, subdivision 6, any municipality in which there exists a local police or salaried firefighters' relief association as enumerated in subdivision 1a which does not comply with the provisions of this section or the provisions of any applicable special law relating to the funding or financing of the association and that municipality may not qualify initially to receive, or be entitled subsequently to retain, state aid under sections 69.011 to 69.051 until the reason for the disqualification is remedied, whereupon the municipality, if otherwise qualified, is entitled to again receive state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied.

(c) The state auditor and the commissioner shall determine if a municipality with a local police or salaried firefighters' relief association fails to comply with the provisions of this section or the funding or financing provisions of any applicable special law.

Subd. 1a. **Covered retirement plans.** The provisions of this section apply to the Bloomington Firefighters Relief Association.

Subd. 2. **Inapplicable penalty.** The penalty provided for in subdivision 1 does not apply to a relief association enumerated in subdivision 1a if the requirements of subdivisions 3 to 10 are met.

Subd. 2a. [Renumbered subd 3]

Subd. 2b. [Renumbered subd 4]
Subd. 2c. [Renumbered subd 5]

Subd. 2d. [Renumbered subd 6]

Subd. 2e. [Renumbered subd 7]

Subd. 2f. [Renumbered subd 8]

Subd. 2g. [Renumbered subd 9]

Subd. 2h. [Renumbered subd 10]

Subd. 2i. [Renumbered subd 11]

Subd. 3. [Renumbered subd 13]

Subd. 3. **Minimum member contribution.** Each active member of the relief association must pay into the special fund of the association during a year of covered service, a contribution for retirement coverage, including survivorship benefits, of not less than eight percent of the maximum rate of salary upon which retirement coverage is credited and service pension and retirement benefit amounts are determined. The member contributions must be made by payroll deduction from the salary of the member by the municipality, and must be transmitted by the municipality to the relief association as soon as practical. The relief association shall deposit the member contribution to the credit of the special fund of the relief association. The member contribution requirement specified in this subdivision does not apply to any members who are volunteer firefighters.

Subd. 4. **Relief association financial requirements; minimum municipal obligation.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of
the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8, by that fund's amortization date as specified in paragraph (d).

(d) The Bloomington Fire Department Relief Association special fund amortization date is determined under section 356.216, clause (2). The amortization date specified in this paragraph supersedes any amortization date specified in any applicable special law.

(e) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, paragraph (a), clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

Subd. 5. **Determination submission.** The officers of the relief association shall submit the determination of the financial requirements of the relief association and of the minimum obligation of the municipality to the governing body on or before the date established by the municipality, which may not be earlier than August 1 and may not be later than September 1 of each year. The governing body of the municipality must ascertain whether or not the determinations were prepared in accordance with law.

Subd. 6. **Municipal payment.** (a) The municipality shall provide for and shall pay, each year, at least the amount of the minimum obligation of the municipality to the relief association.

(b) If there is any deficiency in the municipal payment to meet the minimum obligation of the municipality as of the end of any calendar year, the amount of the deficiency must be added to the minimum obligation of the municipality for the following year calculated under subdivision 4 and must include interest at the compound rate of six percent per annum from the date that the municipality was required to make payment under this subdivision until the date that the municipality actually makes the required payment.

Subd. 7. **Budget inclusion.** (a) The municipality shall provide in the annual municipal budget for at least the minimum obligation of the municipality calculated under subdivision 4.

(b) The municipality may levy taxes for the payment of the minimum obligation of the municipality without any limitation as to rate or amount and irrespective of limitations imposed by other provisions of law upon the rate or amount of taxation when the balance of the special fund or any fund of the relief association has attained a specified minimum asset level. In addition, any taxes levied under this section may not cause the amount or rate of other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.
(c) If the municipality does not include the full amount of the minimum obligation of the municipality in the levy that the municipality certified to the county auditor in any year, the officers of the relief association shall certify the amount of any deficiency to the county auditor. Upon verifying the existence of any deficiency in the levy certified by the municipality, the county auditor shall spread a levy over the taxable property of the municipality in the amount of the deficiency certified to by the officers of the relief association.

Subd. 8. **Accelerated amortization.** Any sums of money paid by the municipality to the relief association in excess of the minimum obligation of the municipality in any year must be used to amortize any unfunded actuarial accrued liabilities of the relief association.

Subd. 9. **Local paid fire relief association investment authority.** (a) The special fund of the association must be invested in securities that are authorized investments under section 356A.06, subdivision 6 or 7, whichever applies.

(b) The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm must use the formula or formulas developed by the state board under section 11A.04, clause (11).

(c) The governing board of the association may certify general fund assets of the relief association for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

Subd. 10. **Actuarial valuation required.** The association shall obtain an actuarial valuation showing the condition of the special fund of the relief association under sections 356.215 and 356.216 and any applicable standards for actuarial work established by the Legislative Commission on Pensions and Retirement. The actuarial valuation must be made as of December 31 of every year. A copy of the actuarial valuation must be filed with the Director of the Legislative Reference Library, the governing body of the municipality in which the association is organized, the executive director of the Legislative Commission on Pensions and Retirement, and the state auditor, not later than July 1 of the following year.

Subd. 11. **Municipal approval of benefit changes required.** Any amendment to the bylaws or articles of incorporation of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from any police or firefighters' relief association enumerated in subdivision 1a is not effective until it is ratified by the municipality in which the relief association is located. The officers of the relief association shall not seek municipal ratification before obtaining either an updated actuarial valuation including the proposed amendment or an estimate of the expected actuarial impact of the proposed amendment prepared by the actuary of the relief association and submitting that actuarial valuation or estimate to the clerk of the municipality.

Subd. 12. **Application of other laws to contribution rate.** In the absence of any specific provision to the contrary, no general or special law previously enacted may be construed as reducing the levy amount or rate of contribution to a police or firefighters relief association to which subdivision 1a applies, by a municipality or member of the association, which is required as a condition for the use of public funds or the levy of taxes for the support of the association. Each association, the municipality in which it is organized, and the officers of each, are authorized to do all things required by this section as a condition for the use of public funds or the levy of taxes for the support of the association.

Subd. 13. **Citation.** This section may be cited as the "Police and Firefighters' Relief Associations Guidelines Act of 1969."
History: 1969 c 223 s 1,2; 1971 c 11 s 1; 1971 c 329 s 1; 1973 c 129 s 6; 1973 c 772 s 2; 1974 c 152 s 10; 1975 c 271 s 6; 1977 c 429 s 63; 1978 c 563 s 1,3; 1980 c 341 s 1; 1980 c 607 art 14 s 27; art 15 s 2; 1981 c 208 s 7; 1981 c 224 s 23-26; 1982 c 460 s 5; 1982 c 578 art 3 s 2; 1983 c 71 s 1; 1983 c 289 s 114 subd 1; 1983 c 291 s 2; 1984 c 574 s 2; 1984 c 655 art 1 s 92; 1Sp1985 c 7 s 35; 1986 c 356 s 6; 1986 c 359 s 10; 1987 c 259 s 6,7; 1989 c 319 art 8 s 7; art 19 s 3; 1993 c 300 s 8; 1994 c 604 art 2 s 1; 2002 c 377 art 6 s 1; 2002 c 392 art 1 s 1; art 11 s 52; 1Sp2005 c 8 art 11 s 1; 2006 c 271 art 8 s 1; 2009 c 169 art 8 s 1; 1Sp2011 c 8 art 6 s 19; art 7 s 19; art 8 s 4,5,14; 2012 c 286 art 10 s 4; art 11 s 1,2

69.771 VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION FINANCING GUIDELINES ACT; APPLICATION.

Subdivision 1. Covered relief associations. The applicable provisions of sections 69.771 to 69.776 apply to any firefighters' relief association other than a relief association enumerated in section 69.77, subdivision 1a, which is organized under any laws of this state, which is composed of volunteer firefighters or is composed partially of volunteer firefighters and partially of salaried firefighters with retirement coverage provided by the public employees police and fire fund and which, in either case, operates subject to the service pension minimum requirements for entitlement and maximums contained in section 424A.02, or subject to a special law modifying those requirements or maximums.

Subd. 2. Authorized employer support for a relief association. Notwithstanding any law to the contrary, a municipality may lawfully contribute public funds, including the transfer of any applicable fire state aid, or may levy property taxes for the support of a firefighters' relief association specified in subdivision 1, however organized, which provides retirement coverage or pays a service pension to retired firefighter or a retirement benefit to a disabled firefighter or a surviving dependent of either an active or retired firefighter for the operation and maintenance of the relief association only if the municipality and the relief association both comply with the applicable provisions of sections 69.771 to 69.776.

Subd. 3. Remedy for noncompliance; determination. (a) A municipality in which there exists a firefighters' relief association as specified in subdivision 1 which does not comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of any applicable special law relating to the funding or financing of the association does not qualify initially to receive, and is not entitled subsequently to retain, fire state aid under sections 69.011 to 69.051 until the reason for the disqualification specified by the state auditor is remedied, whereupon the municipality or relief association, if otherwise qualified, is entitled to again receive fire state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied.

(b) The state auditor shall determine if a municipality to which a firefighters' relief association is directly associated or a firefighters' relief association fails to comply with the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any applicable special law based upon the information contained in the annual financial report of the firefighters' relief association required under section 69.051, the actuarial valuation of the relief association, if applicable, the relief association officers' financial requirements of the relief association and minimum municipal obligation determination documentation under section 69.772, subdivisions 3 and 4; 69.773, subdivisions 4 and 5; or 69.774, subdivision 2, if requested to be filed by the state auditor, the applicable municipal or nonprofit firefighting corporation budget, if requested to be filed by the state auditor, and any other relevant documents or reports obtained by the state auditor.
(c) The municipality or nonprofit firefighting corporation and the associated relief association are not eligible to receive or to retain fire state aid if:

1. The relief association fails to prepare or to file the financial report or financial statement under section 69.051;
2. The relief association treasurer is not bonded in the manner and in the amount required by section 69.051, subdivision 2;
3. The relief association officers fail to determine or improperly determine the accrued liability and the annual accruing liability of the relief association under section 69.772, subdivisions 2, 2a, and 3, paragraph (c), clause (2), if applicable;
4. If applicable, the relief association officers fail to obtain and file a required actuarial valuation or the officers file an actuarial valuation that does not contain the special fund actuarial liability calculated under the entry age normal actuarial cost method, the special fund current assets, the special fund unfunded actuarial accrued liability, the special fund normal cost under the entry age normal actuarial cost method, the amortization requirement for the special fund unfunded actuarial accrued liability by the applicable target date, a summary of the applicable benefit plan, a summary of the membership of the relief association, a summary of the actuarial assumptions used in preparing the valuation, and a signed statement by the actuary attesting to its results and certifying to the qualifications of the actuary as an approved actuary under section 356.215, subdivision 1, paragraph (c);
5. The municipality failed to provide a municipal contribution, or the nonprofit firefighting corporation failed to provide a corporate contribution, in the amount equal to the minimum municipal obligation if the relief association is governed under section 69.772, or the amount necessary, when added to the fire state aid actually received in the plan year in question, to at least equal in total the calculated annual financial requirements of the special fund of the relief association if the relief association is governed under section 69.773, and, if the municipal or corporate contribution is deficient, the municipality failed to include the minimum municipal obligation certified under section 69.772, subdivision 3, or 69.773, subdivision 5, in its budget and tax levy or the nonprofit firefighting corporation failed to include the minimum corporate obligation certified under section 69.774, subdivision 2, in the corporate budget;
6. The defined benefit relief association did not receive municipal ratification for the most recent plan amendment when municipal ratification was required under section 69.772, subdivision 6; 69.773, subdivision 6; or 424A.02, subdivision 10;
7. The relief association invested special fund assets in an investment security that is not authorized under section 69.775;
8. The relief association had an administrative expense that is not authorized under section 69.80 or 424A.05, subdivision 3, or the municipality had an expenditure that is not authorized under section 424A.08;
9. The relief association officers fail to provide a complete and accurate public pension plan investment portfolio and performance disclosure under section 356.219;
10. The relief association fails to obtain the acknowledgment from a broker of the statement of investment restrictions under section 356A.06, subdivision 8b;
11. The relief association officers permitted to occur a prohibited transaction under section 356A.06, subdivision 9, or 424A.04, subdivision 2a, or failed to undertake correction of a prohibited transaction that did occur; or
12. The relief association pays a defined benefit service pension in an amount that is in excess of the applicable service pension maximum under section 424A.02, subdivision 3.

History: 1971 c 261 s 1; 1977 c 429 s 63; 1979 c 201 s 1; 1980 c 509 s 19; 1982 c 460 s 6; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1990 c 480 art 6 s 4; 1Sp2005 c 8 art 9 s 3; 2009 c 169 art 10 s 2
69.772 RELIEF ASSOCIATIONS PAYING LUMP-SUM SERVICE PENSIONS.

Subdivision 1. Application. This section shall apply to any firefighters' relief association specified in section 69.771, subdivision 1, which pays a lump-sum service pension, but which does not pay a monthly service pension, to a retiring firefighter when at least the minimum requirements for entitlement to a service pension specified in section 424A.02, or any applicable special legislation and the articles of incorporation or bylaws of the relief association have been met. Each firefighters' relief association to which this section applies shall determine the accrued liability of the special fund of the relief association in accordance with the accrued liability table set forth in subdivision 2 and the financial requirements of the relief association and the minimum obligation of the municipality in accordance with the procedure set forth in subdivision 3.

Subd. 2. Determination of accrued liability. (a) Each firefighters' relief association which pays a service pension when a retiring firefighter meets the minimum requirements for entitlement to a service pension specified in section 424A.02 and which in its articles of incorporation or bylaws requires service credit for a period of service of at least 20 years of active service for a totally nonforfeitable service pension shall determine the accrued liability of the special fund of the firefighters' relief association relative to each active member of the relief association, calculated individually using the following table:

<table>
<thead>
<tr>
<th>Cumulative Year</th>
<th>Accrued Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$60</td>
</tr>
<tr>
<td>2</td>
<td>124</td>
</tr>
<tr>
<td>3</td>
<td>190</td>
</tr>
<tr>
<td>4</td>
<td>260</td>
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<tr>
<td>5</td>
<td>334</td>
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<tr>
<td>6</td>
<td>410</td>
</tr>
<tr>
<td>7</td>
<td>492</td>
</tr>
<tr>
<td>8</td>
<td>576</td>
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<tr>
<td>9</td>
<td>666</td>
</tr>
<tr>
<td>10</td>
<td>760</td>
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<td>11</td>
<td>858</td>
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<td>12</td>
<td>962</td>
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<td>13</td>
<td>1070</td>
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<tr>
<td>14</td>
<td>1184</td>
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<td>15</td>
<td>1304</td>
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<tr>
<td>16</td>
<td>1428</td>
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<tr>
<td>17</td>
<td>1560</td>
</tr>
<tr>
<td>18</td>
<td>1698</td>
</tr>
<tr>
<td>19</td>
<td>1844</td>
</tr>
<tr>
<td>20</td>
<td>2000</td>
</tr>
<tr>
<td>21 and thereafter</td>
<td>100 additional per year</td>
</tr>
</tbody>
</table>

(b) As set forth in the table the accrued liability for each member of the relief association corresponds to the cumulative years of active service to the credit of the member. The accrued liability of the special fund for each active member is determined by multiplying the accrued liability from the chart by the ratio of the lump-sum service pension amount currently provided for in the bylaws of the
relief association to a service pension of $100 per year of service. If a member has fractional service as of December 31, the figure for service credit to be used for the determination of accrued liability pursuant to this section shall be rounded to the nearest full year of service credit. The total accrued liability of the special fund as of December 31 shall be the sum of the accrued liability attributable to each active member of the relief association.

(c) To the extent that the state auditor considers it to be necessary or practical, the state auditor may specify and issue procedures, forms, or mathematical tables for use in performing the calculations of the accrued liability for deferred members pursuant to this subdivision.

Subd. 2a. **Determination of accrued liability for recipients of installment payments.** (a) Each firefighters' relief association which pays a lump-sum service pension in installment payments to a retired firefighter pursuant to section 424A.02, subdivision 8, shall determine the accrued liability of the special fund of the firefighters' relief association relative to each retired member receiving a lump-sum service pension in installment payments calculated individually as the sum of each future installment payment discounted at an interest rate of five percent, compounded annually, from the date the installment payment is scheduled to be paid to December 31. If the bylaws of the relief association provide for the payment of interest on unpaid installments, the amount of interest, projected to December 31, shall be added to the accrued liability attributable to each retired member. The sum of the accrued liability attributable to each retired member of the relief association receiving a lump-sum service pension in installment payments shall be the total additional accrued liability of the special fund of the relief association as of December 31, and shall be added to the accrued liability of the special fund of the relief association calculated pursuant to subdivision 2 for purposes of calculating the financial requirements of the relief association and the minimum obligation of the municipality pursuant to subdivision 3.

(b) To the extent that the state auditor deems it to be necessary or practical, the state auditor may specify and issue procedures, forms, or mathematical tables for use in performing the calculations required pursuant to this subdivision.

Subd. 3. **Financial requirements of relief association; minimum obligation of municipality.**

(a) During the month of July, the officers of the relief association shall determine the overall funding balance of the special fund for the current calendar year, the financial requirements of the special fund for the following calendar year and the minimum obligation of the municipality with respect to the special fund for the following calendar year in accordance with the requirements of this subdivision.

(b) The overall funding balance of the special fund for the current calendar year must be determined in the following manner:

(1) The total accrued liability of the special fund for all active and deferred members of the relief association as of December 31 of the current year must be calculated under subdivisions 2 and 2a, if applicable.

(2) The total present assets of the special fund projected to December 31 of the current year, including receipts by and disbursements from the special fund anticipated to occur on or before December 31, must be calculated. To the extent possible, for those assets for which a market value is readily ascertainable, the current market value as of the date of the calculation for those assets must be utilized in making this calculation. For any asset for which no market value is readily ascertainable, the cost value or the book value, whichever is applicable, must be utilized in making this calculation.

(3) The amount of the total present assets of the special fund calculated under clause (2) must be subtracted from the amount of the total accrued liability of the special fund calculated under clause (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the special fund is considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the special fund is considered to have a deficit from
full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund is considered to be fully funded.

(c) The financial requirements of the special fund for the following calendar year must be determined in the following manner:

(1) The total accrued liability of the special fund for all active and deferred members of the relief association as of December 31 of the calendar year next following the current calendar year must be calculated under subdivisions 2 and 2a, if applicable.

(2) The increase in the total accrued liability of the special fund for the following calendar year over the total accrued liability of the special fund for the current year must be calculated.

(3) The amount of anticipated future administrative expenses of the special fund must be calculated by multiplying the dollar amount of the administrative expenses of the special fund for the most recent prior calendar year by the factor of 1.035.

(4) If the special fund is fully funded, the financial requirements of the special fund for the following calendar year are the total of the amounts calculated under clauses (2) and (3).

(5) If the special fund has a deficit from full funding, the financial requirements of the special fund for the following calendar year are the financial requirements of the special fund calculated as though the special fund were fully funded under clause (4) plus an amount equal to one-tenth of the original amount of the deficit from full funding of the special fund as determined under clause (2) resulting either from an increase in the amount of the service pension occurring in the last ten years or from a net annual investment loss occurring during the last ten years until each increase in the deficit from full funding is fully retired. The annual amortization contribution under this clause may not exceed the amount of the deficit from full funding.

(6) If the special fund has a surplus over full funding, the financial requirements of the special fund for the following calendar year are the financial requirements of the special fund calculated as though the special fund were fully funded under clause (4) reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the special fund.

(d) The minimum obligation of the municipality with respect to the special fund is the financial requirements of the special fund reduced by the amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the municipality for transmittal to the special fund during the following calendar year, an amount of interest on the assets of the special fund projected to the beginning of the following calendar year calculated at the rate of five percent per annum, and the amount of any contributions to the special fund required by the relief association bylaws from the active members of the relief association reasonably anticipated to be received during the following calendar year. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

Subd. 4. Certification of financial requirements and minimum municipal obligation; levy. (a) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 3 on or before August 1 of each year. The certification must be made to the entity that is responsible for satisfying the minimum obligation with respect to the special fund of the relief association. If the responsible entity is a joint powers entity, the certification must be made in the manner specified in the joint powers agreement, or if the joint powers agreement is silent on this point, the certification must be made to the chair of the joint powers board.

(b) The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051. The schedule forms related to the determination of the financial requirements must be filed with the state auditor by March 31, annually, if the relief association is required to file a financial statement under section 69.051, subdivision 1a, or by June 30, annually, if the relief association is required to file a financial report and audit under section 69.051, subdivision 1.
(c) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue.

(d) The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law upon the rate or amount of taxation until the balance of the special fund or any fund of the relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

(e) If the municipality does not include the full amount of the minimum municipal obligations in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the certified minimum municipal obligation on the taxable property of the municipality.

(f) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request a copy of the certifications under this subdivision from the relief association or from the city. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

Subd. 5. **Crediting of investment income; effect of excess interest.** All investment income earned on the assets of the special fund of the relief association shall be credited to the special fund. Investment income earned or anticipated to be earned in a calendar year in excess of the assumed rate specified in subdivision 3, clause (3) shall not be included in the calculations of the financial requirements of the special fund of the relief association or the minimum obligation of the municipality with respect to the special fund of the relief association for that calendar year.

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding under subdivision 3, paragraph (c), clause (5), and if the municipality is required to provide financial support to the special fund of the relief association under this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding under subdivision 3, paragraph (c), clause (5), and if the municipality is not required to provide financial support to the special fund of the relief association under this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association under this
section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

History: 1971 c 261 s 2; 1973 c 772 s 3; 1977 c 171 s 2; 1977 c 429 s 63; 1978 c 562 s 1; 1979 c 201 s 2-8; 1981 c 224 s 27,28; 1982 c 421 s 1; 1982 c 465 s 1; 1983 c 219 s 1-3; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 259 s 8; 1990 c 480 art 6 s 5; 1Sp2003 c 1 art 2 s 62; 1Sp2005 c 8 art 9 s 4,5; 2009 c 169 art 10 s 3,4; 2010 c 359 art 13 s 1; 2010 c 382 s 14; 2012 c 286 art 12 s 5

69.773 RELIEF ASSOCIATIONS PAYING MONTHLY SERVICE PENSIONS.

Subdivision 1. Application. (a) This section applies to any firefighters relief association specified in section 69.771, subdivision 1, which pays or allows for an option of a monthly service pension to a retiring firefighter when at least the minimum requirements for entitlement to a service pension specified in section 424A.02, any applicable special legislation and the articles of incorporation or bylaws of the relief association have been met. Each firefighters relief association to which this section applies shall determine the actuarial condition and funding costs of the special fund of the relief association in accordance with subdivisions 2 and 3, the financial requirements of the special fund of the relief association in accordance with subdivision 4 and the minimum obligation of the municipality with respect to the special fund of the relief association in accordance with subdivision 5.

(b) If a firefighters relief association that previously provided a monthly benefit service pension discontinues that practice and either replaces the monthly benefit amount with a lump sum benefit amount consistent with section 424A.02, subdivision 3, or purchases an annuity in the same amount as the monthly benefit from an insurance company licensed to do business in this state, the actuarial condition and funding costs, financial, and minimum municipal obligation requirements of section 69.772 apply rather than this section.

Subd. 2. Determination of actuarial condition and funding costs. A relief association to which this section applies shall obtain an actuarial valuation showing the condition of the special fund of the relief association as of December 31, 1978, and at least as of December 31 every four years thereafter. The valuation shall be prepared in accordance with the provisions of sections 356.215, subdivision 8, and 356.216 and any applicable standards for actuarial work established by the Legislative Commission on Pensions and Retirement, except that the figure for normal cost shall be expressed as a level dollar amount, and the amortization contribution shall be the level dollar amount calculated to amortize any current unfunded accrued liability by at least the date of full funding specified in subdivision 4, clause (b). Each valuation shall be filed with the governing body of the municipality in which the relief association is located and with the state auditor, not later than July 1 of the year next following the date as of which the actuarial valuation is prepared. Any relief association which is operating under a special law which requires that actuarial valuations be obtained at least every four years and be prepared in accordance with applicable actuarial standards set forth in statute may continue to have actuarial valuations made according to the time schedule set forth in the special legislation subject to the provisions of subdivision 3.

Subd. 3. Valuation requirement upon benefit change. The officers of the relief association shall not seek municipal ratification of any amendments to the articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement

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benefits payable from any relief association pursuant to subdivision 6 prior to obtaining either an updated actuarial valuation including the proposed amendment or an estimate of the expected actuarial impact of the proposed amendment prepared by the actuary of the relief association.

Subd. 4. Financial requirements of special fund. (a) On or before August 1 of each year, the officers of the relief association shall determine the financial requirements of the special fund of the relief association in accordance with the requirements of this subdivision.

(b) The financial requirements of the relief association must be based on the most recent actuarial valuation of the special fund prepared in accordance with subdivision 2. If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements must be determined by adding the figures calculated under paragraph (d), clauses (1), (2), and (3). If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements must be an amount equal to the figure calculated under paragraph (d), clauses (1) and (2), reduced by an amount equal to one-tenth of the amount of any assets in excess of the actuarial accrued liability of the relief association.

(c) The determination of whether or not the relief association has an unfunded actuarial accrued liability must be based on the current market value of assets for which a market value is readily ascertainable and the cost or book value, whichever is applicable, for assets for which no market value is readily ascertainable.

(d) The components of the financial requirements of the relief association are the following:

(1) The normal level cost requirement for the following year, expressed as a dollar amount, is the figure for the normal level cost of the relief association as reported in the actuarial valuation.

(2) The amount of anticipated future administrative expenses of the special fund must be calculated by multiplying the dollar amount of the administrative expenses of the special fund for the most recent prior calendar year by the factor of 1.035.

(3) The amortization contribution requirement to retire the current unfunded actuarial accrued liability by the established date for full funding is the figure for the amortization contribution as reported in the actuarial valuation. If there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both, payable from the special fund, or a change in the actuarial cost method used to value all or a portion of the special fund which change or changes, which by themselves, without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability of the special fund, the established date for full funding is the December 31 occurring ten years later. If there has been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both payable from the special fund or a change in the actuarial cost method used to value all or a portion of the special fund which change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability of the special fund within the past 20 years, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the special fund attributable to experience losses that have occurred since the most recent prior actuarial valuation must be determined and the level annual dollar contribution needed to amortize the experience loss over a period of ten years ending on the December 31 occurring ten years later must be calculated;

(ii) the unfunded actuarial accrued liability of the special fund must be determined in accordance with the provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

(iii) the level annual dollar contribution needed to amortize this unfunded actuarial accrued liability amount by the date for full funding in effect before the change must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect before any applicable change;

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(iv) the unfunded actuarial accrued liability of the special fund must be determined in accordance with any new provisions governing service pensions, retirement benefits, and actuarial assumptions and the remaining provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

(v) the level annual dollar contribution needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (ii) and the unfunded actuarial accrued liability amount calculated under item (iv) over a period of 20 years starting December 31 of the year in which the change is effective must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change;

(vi) the annual amortization contribution calculated under item (v) must be added to the annual amortization contribution calculated under items (i) and (iii);

(vii) the period in which the unfunded actuarial accrued liability amount determined in item (iv) will be amortized by the total annual amortization contribution computed under item (vi) must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change, rounded to the nearest integral number of years, but which must not exceed a period of 20 years from the end of the year in which the determination of the date for full funding using this procedure is made and which must not be less than the period of years beginning in the year in which the determination of the date for full funding using this procedure is made and ending by the date for full funding in effect before the change;

(viii) the period determined under item (vii) must be added to the date as of which the actuarial valuation was prepared and the resulting date is the new date for full funding.

Subd. 5. Minimum municipal obligation. (a) The officers of the relief association shall determine the minimum obligation of the municipality with respect to the special fund of the relief association for the following calendar year on or before August 1 of each year in accordance with the requirements of this subdivision.

(b) The minimum obligation of the municipality with respect to the special fund is an amount equal to the financial requirements of the special fund of the relief association determined under subdivision 4, reduced by the estimated amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the municipality for transmittal to the special fund of the relief association during the following year and the amount of any anticipated contributions to the special fund required by the relief association bylaws from the active members of the relief association reasonably anticipated to be received during the following calendar year. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(c) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 4 and this subdivision by August 1 of each year. The certification must be made to the entity that is responsible for satisfying the minimum obligation with respect to the special fund of the relief association. If the responsible entity is a joint powers entity, the certification must be made in the manner specified in the joint powers agreement, or if the joint powers agreement is silent on this point, the certification must be made to the chair of the joint powers board.

(d) The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051.

(e) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue. The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law or charter upon the rate or amount of taxation until the balance of the special fund or any fund of the
relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

(f) If the municipality does not include the full amount of the minimum municipal obligation in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the minimum municipal obligation on the taxable property of the municipality.

(g) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request from the relief association or from the city a copy of the certifications under this subdivision. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

Subd. 6. Municipal ratification for plan amendments. If the special fund of the relief association does not have a surplus over full funding under subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding under subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association under this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

History: 1971 c 261 s 3; 1977 c 429 s 63; 1978 c 563 s 4; 1979 c 201 s 9; 1981 c 224 s 29; 1982 c 421 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1Sp1985 c 7 s 35; 1986 c 359 s 11; 1987 c 259 s 9,10; 1994 c 541 s 1; 2000 c 461 art 15 s 3; 2002 c 392 art 11 s 52; 1Sp2005 c 8 art 9 s 6.7; art 10 s 6; 2007 c 13 art 2 s 18; 2009 c 169 art 10 s 5; 2010 c 359 art 13 s 2; 2012 c 286 art 12 s 6
69.774 NONPROFIT FIREFIGHTING CORPORATIONS.

Subdivision 1. Authorized inclusion in fire state aid program; covered nonprofit corporations. This section shall apply to any independent nonprofit firefighting corporation incorporated or organized pursuant to chapter 317A which operates exclusively for firefighting purposes, which is composed of volunteer firefighters, which has a duly established separate subsidiary incorporated firefighters' relief association which provides retirement coverage for or pays a service pension to a retired firefighter or a retirement benefit to a surviving dependent of either an active or a retired firefighter, and which operates subject to the service pension minimum requirements for entitlement to and maximums for a service pension contained in section 424A.02, or a special law modifying those requirements or maximums. Notwithstanding any law to the contrary, a municipality contracting with an independent nonprofit firefighting corporation shall be included in the distribution of fire state aid to the appropriate county auditor by the state auditor only if the independent nonprofit firefighting corporation complies with the provisions of this section.

Subd. 2. Determination of actuarial condition and funding costs. Each independent nonprofit firefighting corporation to which this section applies shall determine the actuarial condition and the funding costs of the subsidiary relief association using the following procedure:

(1) An independent nonprofit firefighting corporation which has a subsidiary relief association which pays a monthly benefit service pension shall procure an actuarial valuation of the special fund of the subsidiary relief association at the same times and in the same manner as specified in section 69.773, subdivisions 2 and 3, and an independent nonprofit firefighting corporation which has a subsidiary relief association which pays a lump-sum service pension shall determine the accrued liability of the special fund of the relief association in accordance with section 69.772, subdivision 2.

(2) The financial requirements of the special fund of the subsidiary relief association which pays a monthly benefit service pension shall be determined in the same manner as specified in section 69.773, subdivision 4, and the financial requirements of the special fund of the subsidiary relief association shall be determined in the same manner as specified in section 69.772, subdivision 3.

(3) The minimum obligation of the independent nonprofit firefighting corporation on behalf of the special fund of the subsidiary relief association shall be determined in the same manner as specified in section 69.773, subdivision 5.

(4) The independent nonprofit firefighting corporation shall appropriate annually from the income of the corporation an amount at least equal to the minimum obligation of the independent nonprofit firefighting corporation on behalf of the special fund of the subsidiary relief association.

Subd. 3. Authorized pension disbursements. Authorized disbursements of assets of the special fund of the subsidiary relief association of the nonprofit firefighting corporation shall be governed by the provisions of section 424A.05.

History: 1971 c 261 s 4; 1977 c 429 s 63; 1979 c 201 s 10; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1989 c 304 s 137; 1990 c 480 art 6 s 6

69.775 INVESTMENTS.

(a) The special fund assets of a relief association governed by sections 69.771 to 69.776 must be invested in securities that are authorized investments under section 356A.06, subdivision 6 or 7, whichever applies.
(b) The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm must use the formula or formulas developed by the state board under section 11A.04, clause (11).

**History:** 1971 c 261 s 5; 1973 c 129 s 7; 1974 c 152 s 11; 1980 c 607 art 14 s 28,45 subd 1; 1981 c 208 s 8; 1984 c 574 s 3; 1986 c 356 s 7; 1986 c 359 s 12; 1989 c 319 art 8 s 8; 1993 c 300 s 9; 1994 c 604 art 2 s 2; 1Sp2005 c 8 art 9 s 8; 2012 c 286 art 10 s 5

### 69.776 CITATION; APPLICATION OF OTHER LAWS.

Subdivision 1. Citation. Sections 69.771 to 69.776 may be cited as the "Volunteer Firefighters' Relief Association Guidelines Act of 1971."

Subd. 2. Applicability. Notwithstanding any other law to the contrary, no relief association described in sections 69.771 to 69.776, authorized under any present or future legislative act, shall be exempt from sections 69.771 to 69.776 unless such relief association is exempted by specific legislative reference to the Volunteer Firefighters' Relief Association Guidelines Act of 1971.

**History:** 1971 c 261 s 6; 1977 c 429 s 63

### 69.80 AUTHORIZED ADMINISTRATIVE EXPENSES.

(a) Notwithstanding any provision of law to the contrary, the payment of the following necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, when provided for in the bylaws of the association and approved by the board of trustees, constitutes authorized administrative expenses of a police, salaried firefighters', or volunteer firefighters' relief association organized under any law of this state:

1. Office expense, including, but not limited to, rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures, and salaries of administrative personnel;
2. Salaries of the officers of the association, or their designees, and salaries of the members of the board of trustees of the association if the salary amounts are approved by the governing body of the entity that is responsible for meeting any minimum obligation under section 69.77, 69.772, or 69.773, and the itemized expenses of relief association officers and board members that are incurred as a result of fulfilling their responsibilities as administrators of the special fund;
3. Tuition, registration fees, organizational dues, and other authorized expenses of the officers or members of the board of trustees incurred in attending educational conferences, seminars, or classes relating to the administration of the relief association;
4. Audit, actuarial, medical, legal, and investment and performance evaluation expenses;
5. Filing and application fees payable by the relief association to federal or other governmental entities;
6. Reimbursement to the officers and members of the board of trustees, or their designees, for reasonable and necessary expenses actually paid and incurred in the performance of their duties as officers or members of the board; and
7. Premiums on fiduciary liability insurance and official bonds for the officers, members of the board of trustees, and employees of the relief association.
(b) Any other expenses of the relief association must be paid from the general fund of the
association, if one exists. If a relief association has only one fund, that fund is the special fund for
purposes of this section. If a relief association has a special fund and a general fund, and any expense of
the relief association that is directly related to the purposes for which both funds were established, the
payment of that expense must be apportioned between the two funds on the basis of the benefits derived
by each fund.

History: 1978 c 690 s 8; 1986 c 359 s 13; 1987 c 372 art 1 s 1; 2002 c 392 art 1 s 2; 2012 c 286
art 12 s 7
Minnesota Statutes
Chapter 138

Historical Societies; Sites; Archives; Archaeology; Folklife

(§ 138.17)
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Subdivision 1. **Destruction, preservation, reproduction of records; prima facie evidence.** (a) The attorney general, legislative auditor in the case of state records, state auditor in the case of local records, and director of the Minnesota Historical Society, hereinafter director, shall constitute the Records Disposition Panel. The members of the panel shall have power by majority vote to direct the destruction or sale for salvage of government records determined to be no longer of any value, or to direct the disposition by gift to the Minnesota Historical Society or otherwise of government records determined to be valuable for preservation. The Records Disposition Panel may by majority vote order any of those records to be reproduced by photographic or other means, and order that photographic or other reproductions be substituted for the originals of them. It may direct the destruction or sale for salvage or other disposition of the originals from which they were made. Photographic or other reproductions shall for all purposes be deemed the originals of the records reproduced when so ordered by the records disposition panel, and shall be admissible as evidence in all courts and in proceedings of every kind. A facsimile, exemplified or certified copy of a photographic, optical disk imaging, or other reproduction, or an enlargement or reduction of it, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original. The Records Disposition Panel, by majority vote, may direct the storage of government records, except as herein provided, and direct the storage of photographic or other reproductions. Photographic or other reproductions substituted for original records shall be disposed of in accordance with the procedures provided for the original records.

(b) For the purposes of this chapter:

(1) the term "government records" means state and local records, including all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, reports, tapes, writings, optical disks, and other data, information, or documentary material, regardless of physical form or characteristics, storage media or conditions of use, made or received by an officer or agency of the state and an officer or agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity within the state pursuant to state law or in connection with the transaction of public business by an officer or agency;

(2) the term "state record" means a record of a department, office, officer, commission, commissioner, board or any other agency, however styled or designated, of the executive branch of state government; a record of the state legislature; a record of any court, whether of statewide or local jurisdiction; and any other record designated or treated as a state record under state law;

(3) the term "local record" means a record of an agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity;

(4) the term "records" excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws;

(5) the term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government or because of the value of the information contained in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for inclusion in the collections of the Minnesota Historical Society.

(c) If the decision is made to dispose of records by majority vote, the Minnesota Historical Society may acquire and retain whatever they determine to be of potential historical value.

Subd. 1a. **Records inspection.** Government records which a state agency, political subdivision, or statewide system lists on a records disposition application or records schedule, or on which archival
assistance or advice is requested, may be inspected by state archives' employees if state archives gives prior notice. Employees of the archives shall have access to the records for the purpose of determining the historical or other continuing value of the records, regardless of the records' classification pursuant to chapter 13 or 270B. Employees of the archives shall be liable to the penalties set forth for improper disclosure by them of private, confidential, nonpublic, or protected nonpublic data inspected for this purpose.

Subd. 1b. Transfer process. After July 1, 1982, all records deemed to be of continuing value and authorized for transfer to the archives by the Records Disposition Panel shall be retained by the requesting agency or may be transferred to the archives in accordance with subdivision 1, notwithstanding the provisions of chapter 13. The responsible authority of the state agency, political subdivision, or statewide system transferring records to the archives shall notify the archivist or a designee with regard to the records transferred of the classification of the records pursuant to chapter 13.

Subd. 1c. Access to archives records. (a) All records transferred to the archives shall be accessible to the public unless the archives determines that the information:

(1) was compiled for law enforcement purposes and disclosure would (i) materially impair the effectiveness of an ongoing investigation, criminal intelligence operation, or law enforcement proceeding; (ii) identify a confidential informant; (iii) reveal confidential investigative techniques or procedures, including criminal intelligence activity; or (iv) endanger the life of an individual;

(2) is administrative or technical information, including software, operating protocols, employee manuals, or other information, the disclosure of which would jeopardize the security of a record-keeping system;

(3) is proprietary information, including computer programs and software and other types of information manufactured or marketed by persons under exclusive legal right, owned by the agency or entrusted to it;

(4) contains trade secrets or confidential commercial and financial information obtained, upon request, from a person;

(5) is library, archival, or museum material contributed by private persons to the extent of any lawful limitation imposed upon the material; or

(6) if disclosed, would constitute a clearly unwarranted invasion of personal privacy. Disclosure of an individually identifiable record does not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interest of the individual.

(b) The society may withhold access to state archives from any person who willfully mutilates, damages, or defaces archival records, or wrongfully removes them from state archives; provided that the society shall notify the person of the decision to withhold access, and the person may, within 30 days, appeal the decision to the Executive Council of the society.

(c) The state archivist shall notify any person from whom access is withheld pursuant to paragraph (a). The person may, within 30 days of the day the notice is sent, appeal the archivist's determination to the Executive Council of the society. The Executive Council shall, within 30 days of the filing of an appeal, issue a decision determining if the archivist has correctly applied the standards of paragraph (a). The decision of the Executive Council may be appealed to the District Court of Ramsey County.

Subd. 2. [Repealed, 1971 c 529 s 15]

Subd. 3. University; State Agricultural Society; Minnesota Historical Society. Laws 1971, chapter 529, sections 1 to 14 shall not apply to the public records of the University of Minnesota, the Minnesota State Agriculture Society, or the Minnesota Historical Society.
Subd. 4. **State library.** No public records of the Minnesota State Library shall be subject to the disposition or orders provided by Laws 1971, chapter 529, except with the consent of the state librarian.

Subd. 5. **Supreme Court.** No public records of the Supreme Court shall be subject to the disposition or orders provided by Laws 1971, chapter 529, except with the consent of the court.

Subd. 6. **Archivist; equipment; supplies.** The Minnesota Historical Society shall employ a professional archivist, who shall be known as the state archivist, and other agents and personnel as are necessary to enable it to carry out its duties and powers. The archivist shall be appointed by the director of the society.

Subd. 7. **Records management.** It shall be the duty of the head of each state agency and the governing body of each county, municipality, and other subdivision of government to establish and maintain an active, continuing program for the economical and efficient management of the records of each agency, county, municipality, or other subdivision of government. Public officials shall prepare an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records, establishing a time period for the retention or disposal of each series of records. When the schedule is unanimously approved by the records disposition panel, the head of the governmental unit or agency having custody of the records may dispose of the type of records listed in the schedule at a time and in a manner prescribed in the schedule for particular records which were created after the approval. A list of records disposed of pursuant to this subdivision shall be maintained by the governmental unit or agency. When records containing not public data as defined in section 13.02, subdivision 8a, are being disposed of under this subdivision, the records must be destroyed in a way that prevents their contents from being determined.

Subd. 8. **Emergency records preservation.** Every county, municipality, or other subdivision of government may institute a program for the preservation of necessary documents essential to the continuity of government in the event of a disaster or emergency.

Subd. 9. [Repealed, 2007 c 76 s 2]

Subd. 10. [Repealed, 2007 c 76 s 2]

**History:** 1947 c 547 s 5; 1961 c 175 s 3-8; 1963 c 695 s 2,3; 1971 c 529 s 4-10; 1973 c 32 s 2,3; 1973 c 123 art 5 s 7; 1974 c 184 s 8,9; 1976 c 324 s 22; 1978 c 717 s 2; 1981 c 311 s 39; 1982 c 545 s 24; 1982 c 573 s 3-8; 1986 c 444; 1987 c 365 s 18; 1990 c 506 art 2 s 17,18; 1991 c 291 art 21 s 4; 1991 c 345 art 1 s 77; 1993 c 71 s 2; 1997 c 202 art 3 s 35; 1999 c 250 art 1 s 80,81; 2001 c 202 s 10; 2005 c 156 art 5 s 23; 2006 c 212 art 1 s 5; 2006 c 233 s 6; 2006 c 253 s 7,8
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Minnesota Statutes
Chapter 317A

Nonprofit Corporations

(§§ 317A.111, .131 - .151, .181, .231, .235, .305, .431, .433, .435, .441, .443, .451, .461 & .823)
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317A.111 ARTICLES.

Subdivision 1. Required provisions. The articles of incorporation must contain:
(1) the name of the corporation;
(2) the address of the registered office of the corporation and the name of its registered agent, if any, at that address; and
(3) the name and address of each incorporator.

Subd. 2. Statutory provisions that may be modified only in articles. The following provisions govern a corporation unless modified in the articles:
(1) a corporation has a general purpose of engaging in any lawful activity (section 317A.101);
(2) the power to initially adopt, amend, or repeal the bylaws is vested in the board (section 317A.181);
(3) cumulative voting for directors is prohibited (section 317A.215);
(4) a written action by the board taken without a meeting must be signed by all directors (section 317A.239); and
(5) members are of one class (section 317A.401).

Subd. 3. Statutory provisions that may be modified in articles or bylaws. The following provisions govern a corporation unless modified in the articles or bylaws:
(1) a certain method must be used for amending the articles (section 317A.133);
(2) a corporation has perpetual duration and certain powers (section 317A.161);
(3) certain procedures apply to the adoption, amendment, or repeal of bylaws by the members with voting rights (section 317A.181);
(4) a director holds office until expiration of the director's term and election of a successor (section 317A.207);
(5) the term of a director filling a vacancy expires at the end of the term the director is filling (section 317A.207);
(6) the compensation of directors is fixed by the board (section 317A.211);
(7) a certain method must be used for removal of directors (section 317A.223);
(8) a certain method must be used for filling board vacancies (section 317A.227);
(9) board meetings must be held at least once per year, and if the board fails to select a place for a board meeting, it must be held at the registered office (section 317A.231);
(10) a director may call a board meeting, and the notice of the meeting need not state the purpose of the meeting (section 317A.231);
(11) a majority of the board is a quorum (section 317A.235);
(12) the affirmative vote of the majority of directors present is required for board action (section 317A.237);
(13) a committee consists of one or more persons, who need not be directors, appointed by the board (section 317A.241, subdivision 2), and a committee may create one or more subcommittees and may delegate to a subcommittee any, or all, of the authority of the committee (section 317A.241, subdivision 3);
(14) the president and treasurer have certain duties, until the board determines otherwise (section 317A.305);
(15) a certain method must be used for removal of officers (section 317A.341);
(16) officers may delegate some or all of their duties and powers, if not prohibited by the board from doing so (section 317A.351);
(17) a corporation does not have members (section 317A.401);
(18) the board may determine the consideration required to admit members (section 317A.401);
(19) all members are entitled to vote and have equal rights and preferences in matters (section 317A.401);  
(20) memberships may not be transferred (section 317A.405);  
(21) a corporation with voting members must hold a regular meeting of voting members annually (section 317A.431);  
(22) if a specific minimum notice period has not been fixed by law, at least five days' notice is required for a meeting of members (section 317A.435);  
(23) the board may fix a date up to 60 days before the date of a members meeting as the date for determination of the members entitled to notice of and entitled to vote at the meeting (section 317A.437);  
(24) each member with voting rights has one vote (section 317A.441);  
(25) the affirmative vote of the majority of members with voting rights present and entitled to vote is required for action of the members, unless this chapter or the articles or bylaws require a greater vote or voting by class (section 317A.443);  
(26) members with voting rights may take action at a meeting by voice or ballot, by unanimous action without a meeting, by mailed ballot, or by electronic communication (section 317A.443);  
(27) the number of members required for a quorum is ten percent of the members entitled to vote (section 317A.451);  
(28) certain procedures govern acceptance of member acts (section 317A.455); and  
(29) indemnification of certain persons is required (section 317A.521).

Subd. 4. Optional provisions; specific subjects. The following provisions relating to the management or regulation of the affairs of a corporation may be included in the articles or, except for naming members of the first board, in the bylaws:  
(1) the first board of directors may be named in the articles (section 317A.171);  
(2) additional qualifications for directors may be imposed (section 317A.205);  
(3) terms of directors may be staggered (section 317A.207);  
(4) the day or date, time, and place of board meetings may be fixed (section 317A.231);  
(5) in addition to the president, authority to sign and deliver certain documents may be delegated to an officer or agent of the corporation (section 317A.305);  
(6) additional officers may be designated (section 317A.311);  
(7) additional powers, rights, duties, and responsibilities may be given to officers (section 317A.311);  
(8) a method for filling vacant offices may be specified (section 317A.341);  
(9) membership criteria and procedures for admission may be established (section 317A.401);  
(10) membership terms may be fixed (section 317A.401);  
(11) a corporation may levy dues, assessments, or fees on members (section 317A.407);  
(12) a corporation may buy memberships (section 317A.413);  
(13) a corporation may have delegates with some or all the authority of members (section 317A.415);  
(14) the day or date, time, and place of regular member meetings or the place of special meetings may be fixed (section 317A.431);  
(15) certain persons may be authorized to call special meetings of members (section 317A.433);  
(16) notices of special member meetings may be required to contain certain information (section 317A.433);  
(17) a larger than majority vote may be required for member action (section 317A.443);  
(18) members with voting rights may vote by proxy (section 317A.453); and  
(19) members with voting rights may enter into voting agreements (section 317A.457).
Subd. 5. **Optional provisions; generally.** The articles may contain other provisions consistent with law relating to the management or regulation of the affairs of the corporation.

Subd. 6. **Powers need not be stated.** It is not necessary to state the corporate powers granted by this chapter in the articles.

Subd. 7. **Substantive law controls.** If there is a conflict between subdivision 2, 3, or 4 and another section of this chapter, the other section controls.

Subd. 8. **Dependence on facts outside of the articles.** Except for provisions included pursuant to subdivision 1, a provision of the articles may:

1. be made dependent upon facts ascertainable outside the articles, but only if the manner in which the facts operate upon the provision is clearly and expressly set forth in the articles; and
2. incorporate by reference some or all of the terms of an agreement, contract, or other arrangement entered into by the corporation, but only if the corporation retains at its principal executive office a copy of the agreement, contract, or other arrangement or the portions incorporated by reference.

**History:** 1989 c 304 s 10; 1990 c 488 s 6,7; 1992 c 503 s 3; 2010 c 250 art 1 s 12-14; art 2 s 16

**317A.131 AMENDMENT OF ARTICLES.**

The articles of a corporation may be amended to include or modify a provision that is required or permitted to appear in the articles or to omit a provision not required to be included in the articles. When articles are amended to restate them, the name and address of each incorporator may be omitted. Unless otherwise provided in this chapter, the articles may be amended or modified only under sections 317A.133 and 317A.139.

**History:** 1989 c 304 s 16

**317A.133 PROCEDURE FOR AMENDMENT OF ARTICLES.**

Subdivision 1. **Approval by incorporators or board.** A majority of incorporators may amend the articles by written action if no directors are named in the original articles, if no directors have been elected, and if there are no members with voting rights. A majority of all directors may amend the articles if there are no members with voting rights, if members with voting rights have authorized the board to amend the articles under subdivision 3, or if the amendment merely restates the existing articles, as amended. Notice of the meeting and of the proposed amendment must be given to the board. An amendment restating the existing articles may, but need not, be submitted to and approved by the members with voting rights as provided in subdivision 2.

Subd. 2. **Approval by board and members with voting rights.** Amendments to the articles must be approved by the affirmative vote of a majority of all directors and by the members with voting rights. If an amendment is initiated by the directors, proper notice of the proposed amendment must precede a meeting of the members with voting rights at which the amendment will be considered and must include the substance of the proposed amendment. If an amendment is proposed and approved by the members
with voting rights, those members may demand a special board meeting within 60 days for consideration of the proposed amendment if a regular board meeting would not occur within 60 days.

Subd. 3. **Approval by board where members have voting rights.** (a) The members with voting rights may authorize the board of directors, subject to paragraph (c), to exercise from time to time the power of amendment of the articles without approval of the members with voting rights.

(b) When the members with voting rights have authorized the board of directors to amend the articles, the board of directors, by the affirmative vote of a majority of all directors, unless the articles, bylaws, or the members' resolution authorizing the board action require a greater vote, may amend the articles at a meeting of the board. Notice of the meeting and of the proposed amendment must be given to the board.

(c) The members with voting rights may prospectively revoke the authority of the board to exercise the power of the members to amend the articles at a meeting duly called for that purpose.

Subd. 4. **Restriction of approval methods.** Articles or bylaws may require greater than majority approval by the board or approval by greater than a majority of a quorum of the voting members for an action under this section and may limit or prohibit the use of mail ballots by voting members.

Subd. 5. **Approval of class.** The articles or bylaws may provide that an amendment also must be approved by the members of a class.

**History:** 1989 c 304 s 17; 1990 c 488 s 9-12; 2010 c 250 art 1 s 15-17

### 317A.139 ARTICLES OF AMENDMENT.

When an amendment has been adopted, articles of amendment must be prepared that contain:

1. the name of the corporation;
2. the amendment adopted;
3. with respect to an amendment restating the articles, a statement that the amendment correctly sets forth without change the corresponding provisions of the articles as previously amended, if the amendment was approved only by the board; and
4. a statement that the amendment has been adopted under this chapter.

**History:** 1989 c 304 s 18

### 317A.141 EFFECT OF AMENDMENT.

Subdivision 1. **Effect on cause of action.** An amendment does not affect an existing cause of action in favor of or against the corporation, a pending suit to which the corporation is a party, nor the existing rights of persons other than members.

Subd. 2. **Effect of change of name.** If the corporate name is changed by the amendment, a suit brought by or against the corporation under its former name does not abate for that reason.
Subd. 3. **Effect of amendments restating articles.** When effective under section 317A.151, an amendment restating the articles in their entirety supersedes the original articles and amendments to the original articles.

Subd. 4. **Effect of amendments on charitable trust assets.** Assets held by a corporation, including income or fees from services, are restricted to the uses and purposes for which the property was received and held.

**History:** 1989 c 304 s 19; 1997 c 222 s 42

### 317A.151 FILING; EFFECTIVE DATE OF ARTICLES.

Subdivision 1. **Filing required.** Articles of incorporation and articles of amendment must be filed with the secretary of state.

Subd. 2. **Effective date.** Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the secretary of state accompanied by a payment of $70, which includes a $35 incorporation fee in addition to the $35 filing fee required by section 317A.011, subdivision 8. Articles of amendment are effective when filed with the secretary of state or at another time within 31 days after filing if the articles of amendment so provide.

**History:** 1989 c 304 s 20; 1989 c 335 art 1 s 204

### 317A.181 BYLAWS.

Subdivision 1. **Generally.** A corporation may, but need not, have bylaws. Bylaws may contain any provision relating to the management or regulation of the affairs of the corporation consistent with law or the articles, including but not limited to:

1. the number of directors, and the qualifications, manner of election, powers, duties, and compensation, if any, of directors;
2. the qualifications of members;
3. different classes of membership;
4. the manner of admission, withdrawal, suspension, and expulsion of members;
5. property, voting, and other rights and privileges of members;
6. the appointment and authority of committees;
7. the appointment or election, duties, compensation, and tenure of officers;
8. the time, place, and manner of calling, conducting, and giving notice of member, board, and committee meetings, or of conducting mail ballots;
9. the making of reports and financial statements to members; or
10. the number establishing a quorum for meetings of members and the board.

Subd. 1a. **Adoption and amendment; no members with voting rights.** Initial bylaws may be adopted under section 317A.171 by a majority of the incorporators or the first board. The bylaws may be amended in the manner provided in the articles or bylaws. In the absence of such provision, a majority of directors may amend or repeal the bylaws.
Subd. 2. Adoption and amendment; members with voting rights. (a) Unless reserved by the articles to the members with voting rights, initial bylaws may be adopted under section 317A.171 by a majority of the incorporators or by the first board. Unless reserved by the articles to the members, the power to adopt, amend, or repeal the bylaws is vested in the board. The power of the board is subject to the power of the members with voting rights under paragraph (b) to adopt, amend, or repeal bylaws adopted, amended, or repealed by the board. The bylaws may be amended in the manner provided in the articles or bylaws. In the absence of such provision, the following bylaw amendments are subject to approval by the members with voting rights: fixing a quorum for meetings of members; prescribing procedures for removing directors or filling vacancies in the board; fixing the number of directors or their classifications, qualifications, or terms of office prescribing procedures for removing or adding members; and increasing or decreasing the vote required for a member action. The board may adopt or amend a bylaw provision to increase the number of directors without member approval.

(b) Unless the articles or bylaws provide otherwise, at least 50 members with voting rights or ten percent of the members with voting rights, whichever is less, may propose a resolution for action by the members to adopt, amend, or repeal bylaws adopted, amended, or repealed by the board. The resolution must contain the provisions proposed for adoption, amendment, or repeal. The limitations and procedures for submitting, considering, and adopting the resolution are the same as provided in section 317A.133, for amendment of the articles, except that board approval is not required.

History: 1989 c 304 s 26; 1990 c 488 s 13; 2010 c 250 art 1 s 18,19

317A.201 BOARD.

The business and affairs of a corporation must be managed by or under the direction of a board of directors. All directors are entitled to vote and have equal rights and preferences except as otherwise provided in the articles or bylaws. The members of the first board may be named in the articles, designated or appointed pursuant to the articles, or elected by the incorporators under section 317A.171.

History: 1989 c 304 s 27; 1990 c 488 s 14

317A.231 BOARD MEETINGS.

Subdivision 1. Time; place. Meetings of the board may be held as provided in the articles or bylaws in or out of this state. Unless the articles or bylaws provide otherwise, a meeting of the board must be held at least once per year. If the articles or bylaws or the board fail to select a place or method for selecting a place for a meeting, the meeting must be held at the registered office.

Subd. 2. MS 2000 [Paragraph (b) renumbered subd 3]

Subd. 2. Meetings solely by means of remote communication. Any meeting among directors may be conducted solely by one or more means of remote communication through which all of the directors may participate in the meeting, if the same notice is given of the meeting required by subdivision 4, and if the number of directors participating in the meeting is sufficient to constitute a quorum at a meeting. Participation in a meeting by that means constitutes presence at the meeting.
Subd. 3. MS 2000 [Renumbered subd 4]

Subd. 3. **Participation in meetings by means of remote communication.** A director may participate in a board meeting by means of conference telephone or, if authorized by the board, by such other means of remote communication, in each case through which that director, other directors so participating, and all directors physically present at the meeting may participate with each other during the meeting. Participation in a meeting by that means constitutes presence at the meeting.

Subd. 4. MS 2000 [Renumbered subd 5]

Subd. 4. **Calling meetings; notice.** (a) Unless the articles or bylaws provide otherwise, a director may call a board meeting by giving five days' notice to all directors of the date, time, and place of the meeting. The notice must contain the substance of the proposed amendment to the articles but otherwise need not state the purpose of the meeting unless the articles or bylaws require it.

(b) If the day or date, time, and place of a board meeting have been provided in the articles or bylaws, or announced at a previous meeting of the board, notice is not required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.

(c) Any notice to a director given under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the director to whom the notice is given is effective when given. The notice is deemed given if by:

1. facsimile communication, when directed to a telephone number at which the director has consented to receive notice;
2. electronic mail, when directed to an electronic mail address at which the director has consented to receive notice;
3. a posting on an electronic network on which the director has consented to receive notice, together with a separate notice to the director of the specific posting, upon the later of:
   i. the posting; or
   ii. the giving of the separate notice; and
4. any other form of electronic communication by which the director has consented to receive notice, when directed to the director.

An affidavit of the secretary, other authorized officer, or authorized agent of the corporation, that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

(d) Consent by a director to notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the director, provided that no revocation affects the validity of any notice given before receipt of revocation of the consent.

Subd. 5. **Waiver of notice.** A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, by authenticated electronic communication, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, unless the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting.

**History:** 1989 c 304 s 39; 2002 c 311 art 3 s 5; 2004 c 199 art 14 s 32,33; 2010 c 250 art 1 s 22,23
317A.235 QUORUM.

A majority, or a larger or smaller proportion or number provided in the articles or bylaws but not less than one-third, of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of directors originally present leaves less than the proportion or number otherwise required for a quorum.

History: 1989 c 304 s 40

317A.305 DUTIES OF REQUIRED OFFICERS.

Subdivision 1. Presumption; modification. Unless the articles, the bylaws, or a resolution adopted by the board and consistent with the articles or bylaws provide otherwise, the president and treasurer have the duties in this section.

Subd. 2. President. The president shall:
(1) have general active management of the business of the corporation;
(2) when present, preside at meetings of the board and of the members;
(3) see that orders and resolutions of the board are carried into effect;
(4) sign and deliver in the name of the corporation deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the articles or bylaws or by the board to another officer or agent of the corporation;
(5) maintain records of and, when necessary, certify proceedings of the board and the members; and
(6) perform other duties prescribed by the board.

Subd. 3. Treasurer. The treasurer shall:
(1) keep accurate financial records for the corporation;
(2) deposit money, drafts, and checks in the name of and to the credit of the corporation in the banks and depositories designated by the board;
(3) endorse for deposit notes, checks, and drafts received by the corporation as ordered by the board, making proper vouchers for the deposit;
(4) disburse corporate funds and issue checks and drafts in the name of the corporation, as ordered by the board;
(5) upon request, provide the president and the board an account of transactions by the treasurer and of the financial condition of the corporation; and
(6) perform other duties prescribed by the board or by the president.

History: 1989 c 304 s 48
317A.431 ANNUAL MEETINGS OF VOTING MEMBERS.

Subdivision 1. **Frequency.** Unless the articles or bylaws provide otherwise, a corporation with voting members shall hold at least an annual meeting of voting members.

Subd. 2. **Demand by members.** If an annual meeting of voting members has not been held during the preceding 15 months, at least 50 members with voting rights or ten percent of the members with voting rights, whichever is less, may demand an annual meeting of members by written notice of demand given to the president or the treasurer of the corporation. Within 30 days after receipt of the demand, the board shall cause a meeting of members to be called and held at the expense of the corporation on notice no later than 90 days after receipt of the demand. If the board fails to cause a meeting to be called and held as required by this subdivision, the members with voting rights making the demand may call the meeting at the expense of the corporation by giving notice as required by section 317A.435.

Subd. 3. **Time; place.** An annual meeting of members must be held at the time and place stated in or fixed in accordance with the articles or bylaws. If a place is not stated or if a demand for a meeting is made under subdivision 2, the meeting must be held in the county where the corporation's registered office is located. To the extent authorized in articles or bylaws, the board of directors may determine that an annual meeting of the members shall be held solely by means of remote communication in accordance with section 317A.450, subdivision 2.

Subd. 4. **Elections; business.** At an annual meeting of members:
(1) there must be an election of successors for directors elected by members and whose terms have expired or whose terms expire at an annual meeting;
(2) there must be a report on the activities and financial condition of the corporation; and
(3) the members shall consider and act upon other matters as may be raised consistent with the notice of meeting requirements.

Subd. 5. **Effect of failure to hold meeting.** The failure to hold a meeting in accordance with a corporation's articles or bylaws does not affect the validity of a corporate action.

History: 1989 c 304 s 64; 1990 c 488 s 27; 1992 c 503 s 10; 2002 c 311 art 3 s 8

317A.433 SPECIAL MEETINGS OF VOTING MEMBERS.

Subdivision 1. **Who may call.** A corporation with voting members shall hold a special meeting of members:
(1) on call of its board or persons authorized to do so by the articles or bylaws; or
(2) if at least 50 members with voting rights or ten percent of the members with voting rights, whichever is less, sign, date, and deliver to the president or the treasurer one or more written demands for the meeting describing the purpose for which it is to be held.

Subd. 2. **Notice.** Within 30 days after receipt of a demand for a special meeting from voting members, the board shall cause a special meeting to be called and held on notice no later than 90 days after receipt of the demand at the expense of the corporation. If the board fails to cause a special meeting
to be called and held as required by this subdivision, a voting member making the demand may call the
meeting by giving notice under section 317A.435 at the expense of the corporation.

Subd. 3. **Time; place.** Special meetings of members may be held in or out of this state at the place
stated in or fixed in accordance with the articles, bylaws, or by the president or the board. If a special
meeting is demanded by the members, the meeting must be held in the county where the corporation's
registered office is located. To the extent authorized in the articles or bylaws, the board of directors may
determine that a special meeting of the members shall be held solely by means of remote communication
in accordance with section 317A.450, subdivision 2.

Subd. 4. **Notice requirements; business limited.** The notice of a special meeting must contain a
statement of the purposes of the meeting. The notice may also contain other information required by the
articles or bylaws or considered necessary or desirable by the board or by another person calling the
meeting. The business transacted at a special meeting is limited to the purposes stated within the notice
of the meeting. Business transacted at a special meeting that is not included in those stated purposes is
voidable by or on behalf of the corporation, unless all of the members with voting rights have waived
notice of the meeting under section 317A.435.

**History:** 1989 c 304 s 65; 2002 c 311 art 3 s 9

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**317A.435 NOTICE REQUIREMENTS.**

Subdivision 1. **To whom given.** Notice of meetings of members must be given to every voting
member as of the record date determined under section 317A.437. If the meeting is an adjourned
meeting and the date, time, and place of the meeting were announced at the time of adjournment, notice
is not required unless a new record date for the adjourned meeting is or must be fixed under section
317A.437.

Subd. 2. **When given; contents.** In all cases where a specific minimum notice period has not been
fixed by law, the notice must be given at least five days before the date of the meeting, or a shorter time
provided in the articles or bylaws, and not more than 60 days before the date of the meeting. The notice
must contain the date, time, and place of the meeting, and other information required by this chapter. If
proxies are permitted at the meeting, the notice must so inform members and state the procedure for
appointing proxies.

Subd. 3. **Waiver of notice; objections.** A member may waive notice of a meeting of members. A
waiver of notice by a member entitled to notice is effective whether given before, at, or after the
meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is
a waiver of notice of that meeting, unless the member objects at the beginning of the meeting to the
transaction of business because the meeting is not lawfully called or convened, or objects before a vote
on an item of business because the item may not lawfully be considered at that meeting and does not
participate in the consideration of the item at that meeting.

Subd. 4. **Neighborhood organizations.** (a) A neighborhood organization must hold an annual
meeting at which there must be an election of successors to directors whose terms expire at the annual
meeting. Notwithstanding subdivisions 1 and 2, notice of a meeting to elect directors and any other
meeting at which articles or bylaws are proposed to be amended must be given as specified by this
subdivision. The articles or bylaws of a neighborhood organization may provide for electing directors by petition, if notice of the petition process is given as provided by this subdivision.

(b) At least ten but not more than 30 days before a meeting of the members of the neighborhood organization is to be held, notice of the date, time, and place of the meeting or the date and process applicable to petitions and any other information required by this chapter must be given in a manner designed to notify all members with voting rights to the extent practical.

(c) For purposes of this subdivision, "neighborhood organization" means a nonprofit corporation under this chapter that represents a defined geographic area and has been accepted by a political subdivision as the basic planning unit for the area. "Neighborhood organization" does not include a unit owners' association under chapter 515B or a planned unit development or homeowners' association that consists exclusively of property owners within a defined geographic area.

(d) A neighborhood organization may choose to be governed by this subdivision by so providing in its articles or bylaws.

History: 1989 c 304 s 67; 1990 c 488 s 28; 2002 c 340 s 1

317A.441 RIGHT TO VOTE.

(a) Unless the articles or bylaws provide otherwise, each member with voting rights is entitled to one vote on each matter voted on by the members. If a membership stands of record in the names of two or more persons, their acts with respect to voting have the following effect:

(1) if only one votes, the act binds all; and

(2) if more than one votes, the vote must be divided on a pro rata basis.

(b) In the case of a neighborhood organization, members with voting rights are, at a minimum, individuals who are on a preexisting membership list or who, at a meeting of the neighborhood organization, can produce:

(1) a Minnesota driver's license, Minnesota identification card, or some form of residency verification that indicates the individual resides within the geographic boundaries of the neighborhood organization; or

(2) proof of ownership or lease of a business or property or proof of being employed by a nonprofit organization, business, or government entity located within the geographic boundaries of the neighborhood, if such members are authorized by the bylaws of the neighborhood organization.

(c) An individual who resides within the geographic boundaries of a neighborhood organization or meets membership criteria under paragraph (b), clause (2), but lacks the documentation required by paragraph (b), clause (1), may vote at a meeting of the neighborhood organization if a member who has the required documentation vouches for the individual.

(d) A neighborhood organization through its articles or bylaws may permit voting at its meetings by individuals in addition to those described in paragraph (b) or (c).

(e) For purposes of this section, "neighborhood organization" has the meaning given in section 317A.435, subdivision 4. A neighborhood organization may choose to be governed by paragraphs (b), (c), and (d) by so providing in its articles or bylaws.

History: 1989 c 304 s 70; 2002 c 340 s 3
317A.443 ACT OF THE MEMBERS.

Subdivision 1. General. Unless this chapter or the articles or bylaws require a greater vote or voting by class, if a quorum is present, or if a quorum has been present at a meeting, the affirmative vote of the majority of the members with voting rights present and entitled to vote, which must also be a majority of the required quorum, is the act of the members.

Subd. 2. Methods. Unless otherwise provided in the articles or bylaws, members may take action at a meeting by voice or ballot, by unanimous action without a meeting under section 317A.445, by ballot under section 317A.447, or by remote communication under section 317A.450.

History: 1989 c 304 s 71; 1990 c 488 s 29; 2003 c 2 art 1 s 36; 2004 c 199 art 14 s 34

317A.451 QUORUM.

Subdivision 1. Number required. Unless otherwise provided by the articles or bylaws, a quorum for a meeting of members is ten percent of the members entitled to vote at the meeting.

Subd. 2. Action. (a) Except as provided in paragraph (b), a quorum is necessary for the transaction of business at a meeting of members. If a quorum is not present, a meeting may be adjourned from time to time for that reason.
(b) If a quorum has been present at a meeting and members have withdrawn from the meeting so that less than a quorum remains, the members still present may continue to transact business until adjournment.

History: 1989 c 304 s 75

317A.461 BOOKS AND RECORDS; FINANCIAL STATEMENT.

Subdivision 1. Articles and bylaws; minutes. A corporation shall keep at its registered office correct and complete copies of its articles and bylaws, accounting records, voting agreements, and minutes of meetings of members, board of directors, and committees having any of the authority of the board of directors for the last six years.

Subd. 2. Inspection. A member or a director, or the agent or attorney of a member or a director, may inspect all documents referred to in subdivision 1 or 3 for any proper purpose at any reasonable time. A proper purpose is one reasonably related to the person's interest as a member or director of the corporation.

Subd. 3. Financial statement. Upon request, a corporation shall give the member or the director a statement showing the financial result of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.
Subd. 4. **Other use prohibited.** A member or director who has gained access under this section to any corporate record may not use or furnish to another for use the corporate record or a portion of the contents for any purpose other than a proper purpose. Upon application of the corporation, a court may issue a protective order or order other relief as may be necessary to enforce the provisions of this subdivision.

Subd. 5. **Cost of copies.** The corporation may charge the requesting party a reasonable fee to cover the expenses of providing copies of documents under this section.

Subd. 6. **Computerized records.** The records maintained by a corporation may use any information storage technique, even though the technique makes them illegible visually, if the records can be converted accurately and within a reasonable time into a form that is legible visually and whose contents are assembled by related subject matter to permit convenient use by people in the normal course of business. A corporation shall convert any of the records referred to in subdivision 1 or 3 upon the request of a person entitled to inspect them, and the expense of the conversion must be borne by the person who bears the expense of copying under subdivision 5. A copy of the conversion is admissible in evidence, and must be accepted for all other purposes, to the same extent as the existing or original records would be if they were legible visually.

Subd. 7. **Remedies.** A member or a director who is wrongfully denied access to or copies of documents under this section may bring an action for injunctive relief, damages, and costs and reasonable attorney fees.

History: 1989 c 304 s 79; 1992 c 503 s 12

317A.823 **ANNUAL CORPORATE RENEWAL.**

Subdivision 1. **Annual renewal.** (a) The secretary of state may send annually to each corporation, using the information provided by the corporation pursuant to section 5.002 or 5.34 or the articles of incorporation, a notice announcing the need to file the annual renewal and informing the corporation that the annual renewal may be filed online and that paper filings may also be made, and informing the corporation that failing to file the annual renewal will result in an administrative dissolution of the corporation.

(b) Each calendar year beginning in the calendar year following the calendar year in which a corporation incorporates, a corporation must file with the secretary of state by December 31 of each calendar year a registration containing the information required by section 5.34.

Subd. 2. **Penalty.** (a) A corporation that has failed to file a renewal pursuant to subdivision 1 must be dissolved by the secretary of state as described in paragraph (b).

(b) If the corporation has not filed the delinquent renewal, the secretary of state must issue a certificate of involuntary dissolution, and the certificate must be filed in the Office of the Secretary of State. The secretary of state must also make available in an electronic format the names of the dissolved corporations. A corporation dissolved in this manner is not entitled to the benefits of section 317A.781.

Subd. 3. [Repealed by amendment, 2000 c 395 s 10]
317A.823, History

History: 1989 c 304 s 121; 1989 c 335 art 1 s 206,207; 1990 c 488 s 41,42; 1991 c 205 s 15;
1992 c 503 s 16; 1993 c 48 s 4; 1993 c 86 s 2; 1995 c 128 art 3 s 5; 2000 c 395 s 10; 2004 c 251 s 7;
2007 c 148 art 2 s 55; 2008 c 203 s 11; 2009 c 101 art 2 s 79
Minnesota Statutes
Chapter 356
Retirement Systems, Generally
(§§ 356.219, .64 & .65)
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356.219 DISCLOSURE OF PUBLIC PENSION PLAN INVESTMENT PORTFOLIO AND PERFORMANCE INFORMATION.

Subdivision 1. Report required. (a) The State Board of Investment, on behalf of the public pension funds and programs for which it is the investment authority, and any Minnesota public pension plan that is not fully invested through the State Board of Investment, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, shall report the information specified in subdivision 3 to the state auditor. The state auditor may prescribe a form or forms for the purposes of the reporting requirements contained in this section.

(b) A local police or firefighters relief association governed by section 69.77 or sections 69.771 to 69.775 is fully invested during a given calendar year for purposes of this section if all assets of the applicable pension plan beyond sufficient cash equivalent investments to cover six months expected expenses are invested under section 11A.17. The board of any fully invested public pension plan remains responsible for submitting investment policy statements and subsequent revisions as required by subdivision 3, paragraph (a).

(c) For purposes of this section, the State Board of Investment is considered to be the investment authority for any Minnesota public pension fund required to be invested by the State Board of Investment under section 11A.23, or for any Minnesota public pension fund authorized to invest in the supplemental investment fund under section 11A.17 and which is fully invested by the State Board of Investment.

(d) This section does not apply to the following plans:
   (1) the Minnesota unclassified employees retirement program under chapter 352D;
   (2) the public employees defined contribution plan under chapter 353D;
   (3) the individual retirement account plans under chapters 354B and 354D;
   (4) the higher education supplemental retirement plan under chapter 354C;
   (5) any alternative retirement benefit plan established under section 383B.914; and
   (6) the University of Minnesota faculty retirement plan.

Subd. 2. Asset class definition. (a) For purposes of this section, "asset class" means any of the following asset groupings as authorized in applicable law, bylaws, or articles of incorporation:

   (1) cash and any cash equivalent investments with maturities of one year or less when issued;
   (2) debt securities with maturities greater than one year when issued, including but not limited to mortgage participation certificates and pools, asset backed securities, guaranteed investment contracts, and authorized government and corporate obligations of corporations organized under laws of the United States or any state, or the Dominion of Canada or its provinces;
   (3) stocks or convertible issues of any corporation organized under laws of the United States or any state, or the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange;
   (4) international stocks or convertible issues;
   (5) international debt securities; and
   (6) real estate and venture capital.

(b) If the pension plan is investing under section 69.77, subdivision 9, section 69.775, or any other applicable law, in open-end investment companies registered under the federal Investment Company Act of 1940, or in the Minnesota supplemental investment fund under section 11A.17, this investment must be included under an asset class indicated in paragraph (a), clauses (1) through (6), as appropriate. If the investment vehicle includes underlying securities from more than one asset class as indicated by paragraph (a), clauses (1) through (6), the investment may be treated as a separate asset class.
Subd. 3. **Content of reports.** (a) The report required by subdivision 1 must include a written statement of the investment policy. Following that initial report, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If, after four years of reporting under this paragraph, the total portfolio time weighted rate of return, net of all investment related costs and fees, provided by the public pension plan differs by no more than 0.1 percent from the comparable return for the plan calculated by the Office of the State Auditor, and if a public pension plan has a total market value of $25,000,000 or more as of the beginning of the calendar year, and if the public pension plan's annual audit is performed by the state auditor or by the legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and as of the end of the calendar year. At the discretion of the state auditor, the public pension plan may be required to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class. If the market value of a public pension plan's fund drops below $25,000,000 in a subsequent year, it must continue reporting under this paragraph for any subsequent year in which the public pension plan is not fully invested as specified in subdivision 1, paragraph (b), except that if the public pension plan's annual audit is not performed by the state auditor or legislative auditor, paragraph (c) applies.

(c) If paragraph (b) would apply if the annual audit were provided by the state auditor or legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class.

(d) For public pension plans to which paragraph (b) or (c) applies, the report required by subdivision 1 must also include a calculation of the total time-weighted rate of return available from index-matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(e) If a public pension plan has a total market value of less than $25,000,000 as of the beginning of the calendar year and was never required to file under paragraph (b) or (c), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(f) Any public pension plan reporting under paragraph (b) or (c) must include computed time-weighted rates of return with the report, in addition to all other required information, as applicable. The chief administrative officer of the public pension plan submitting the returns must certify, on a form prescribed by the state auditor, that the returns have been computed by the pension plan's investment performance consultant or custodial bank. The chief administrative officer of the public pension plan submitting the returns also must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and presentation standards set by the CFA Institute. If the certifications required under this paragraph are not provided, the reporting requirements of paragraph (c) apply.
(g) For public pension plans reporting under paragraph (e), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or be submitted by the State Board of Investment for any plan or plans for which the State Board of Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply, the pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

Subd. 4. [Repealed, 2012 c 286 art 10 s 13]

Subd. 5. **Penalty for noncompliance.** Failure to comply with the reporting requirements of this section must result in a withholding of all state aid or state appropriation to which the pension plan may otherwise be directly or indirectly entitled until the pension plan has complied with the reporting requirements. The state auditor shall instruct the commissioners of revenue and management and budget to withhold any state aid or state appropriation from any pension plan that fails to comply with the reporting requirements contained in this section, until the pension plan has complied with the reporting requirements. The state auditor may waive the withholding of state aid or state appropriations if the state auditor determines in writing that compliance would create an excessive hardship for the pension plan.

Subd. 6. **Investment disclosure report.** (a) The state auditor shall prepare an annual report to the legislature on the investment performance of the various public pension plans subject to this section. The content of the report is specified in paragraphs (b) to (f).

(b) For each public pension plan reporting under subdivision 3, paragraph (b), the state auditor shall report total portfolio and asset class time-weighted rates of return, net of all investment-related costs and fees. If the state auditor has required a plan to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class as prescribed under subdivision 3, paragraph (b), the state auditor shall also compute and report total portfolio and asset class time-weighted rates of return, net of all costs and fees.

(c) For each public pension plan reporting under subdivision 3, paragraph (c), the state auditor shall compute and report total portfolio and asset class time-weighted rates of return, net of all costs and fees.

(d) For each public pension plan reporting under subdivision 3, paragraph (e), the state auditor shall compute and report total portfolio time-weighted rates of return, net of all costs and fees. If the state auditor has requested data for a plan under subdivision 3, paragraph (g), the state auditor may also compute and report asset class time-weighted rates of return, net of all costs and fees.

(e) The report by the state auditor must include the information submitted by the pension plans under subdivision 3, paragraph (d), or a synopsis of that information.

(f) The report by the state auditor may also include a presentation of multiyear performance, information collected under subdivision 4, and any other information or analysis deemed appropriate by the state auditor.

Subd. 7. **Expense of report.** All administrative expenses incurred relating to the investment report by the state auditor described in subdivision 6 must be borne by the Office of the State Auditor and may not be charged back to the entities described in subdivisions 1 or 4.
Subd. 8. **Timing of reports.** (a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c).

(b) For the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, and the University of Minnesota faculty supplemental retirement plan, the information required under this section must be submitted to the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

Subd. 9. **Data availability.** Any information received by the state auditor under this section, if the data are public, must be made available to individuals or organizations which request that information. The state auditor is authorized to charge fees sufficient to cover the cost of providing the requested information in usable formats.

Subd. 10. **Pension performance reporting.** In addition to report presentations that the state auditor is required to provide elsewhere in this section, the state auditor shall provide an analysis comparing the one-year and the five-year rate of return for each pension fund and the benchmark rate of return for each fund. The state auditor shall select the benchmark rate of return based on the best practice in the industry.

**History:** 1994 c 565 art 2 s 1; 1995 c 262 art 9 s 1; 1996 c 438 art 10 s 1; 1997 c 241 art 10 s 4; 2002 c 392 art 1 s 8; art 11 s 10; 2006 c 271 art 8 s 4,5; 2006 c 277 art 6 s 1,2; 2009 c 101 art 2 s 109; 2009 c 169 art 10 s 6; 2012 c 286 art 10 s 7,8

356.64 **REAL ESTATE INVESTMENTS.**

(a) Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the State Board of Investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust if the investment is consistent with section 356A.04.

(b) An investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.

**History:** 2002 c 392 art 11 s 46; 2010 c 359 art 12 s 35

356.65 **DISPOSITION OF ABANDONED PUBLIC PENSION FUND AMOUNTS.**

Subdivision 1. **Definitions.** For purposes of this section, unless the context clearly indicates otherwise, each of the following terms has the meaning given to it:
(a) "Public pension fund" means any public pension plan as defined in section 356.63, paragraph (b), and any Minnesota volunteer firefighters relief association which is established under chapter 424A and governed under sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of management and budget, which have been issued and delivered for more than six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made; or

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

Subd. 2. **Disposition of abandoned amounts.** Any unclaimed public pension fund amounts existing in any public pension fund are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts cancel and must be credited to the public pension fund. If the unclaimed public pension fund amount exceeds $25 and the inactive or former member again becomes a member of the applicable public pension plan or applies for a retirement annuity under section 3A.12, 352.72, 352B.30, 353.71, 354.60, or 356.30, whichever applies, the canceled amount must be restored to the credit of the person.

**History:** 1981 c 224 s 178; 1983 c 286 s 17; 1992 c 513 art 4 s 41; 2001 c 7 s 67; 2002 c 392 art 11 s 47,48; 2008 c 277 art 1 s 80; 2009 c 101 art 2 s 109; 2010 c 359 art 12 s 36
Minnesota Statutes
Chapter 356A

Public Pension Fiduciary Responsibility

(§§ 356A.01 - .13)
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356A.01 DEFINITIONS.

Subdivision 1. Scope. For purposes of this chapter, the following terms have the meanings given them in this section.

Subd. 2. Benefit. "Benefit" means an amount, other than an administrative expense, paid or payable from a pension plan, including a retirement annuity, service pension, disability benefit, survivor benefit, death benefit, funeral benefit, or refund.

Subd. 3. Benefit provisions. "Benefit provisions" means the portion of a pension plan that deals specifically with the benefit coverage provided by the plan, including the kinds of coverage, the eligibility for and entitlement to benefits, and the amount of benefits.

Subd. 4. Benefit recipient. "Benefit recipient" means a person who has received a benefit from a pension plan or to whom a benefit is payable under the terms of the plan document of the pension plan.

Subd. 5. Chief administrative officer. "Chief administrative officer" means the person who has primary responsibility for the execution of the administrative or management affairs of a pension plan.

Subd. 6. Cofiduciary. "Cofiduciary" means a fiduciary of a pension plan, other than a fiduciary directly undertaking a fiduciary activity or directly and primarily responsible for a fiduciary activity.

Subd. 7. Covered governmental entity. "Covered governmental entity" means a governmental subdivision or other governmental entity that employs persons who are plan participants in a covered pension plan and who are eligible for that participation because of their employment.

Subd. 8. Covered pension plan. "Covered pension plan" means a pension plan or fund listed in section 356.20, subdivision 2, or section 356.30, subdivision 3, or a plan established under chapter 353D, 354B, 354C, or 354D.

Subd. 9. Covered pension plan other than a statewide plan. "Covered pension plan other than a statewide plan" means a pension plan not included in the definition of a statewide plan in subdivision 24.

Subd. 10. Direct or indirect profit. "Direct or indirect profit" means a payment of money, the provision of a service or an item of other than nominal value, an extension of credit, a loan, or any other special consideration to a fiduciary or a direct relative of a fiduciary on behalf of the fiduciary in consideration for the performance of a fiduciary activity or a failure to perform a fiduciary activity.

Subd. 11. Direct relative. "Direct relative" means any of the persons or spouses of persons related to one another within the third degree of kindred under civil law.


Subd. 14. Financial institution. "Financial institution" means a bank, savings institution, or credit union organized under federal or state law.
356A.01, Subd. 15

Subd. 15. **Governing board of a pension plan.** "Governing board of a pension plan" means the body of a pension plan that is assigned or that undertakes the chief policy-making powers and management duties of the plan.

Subd. 16. **Investment Advisory Council.** "Investment Advisory Council" means the Investment Advisory Council established by section 11A.08.

Subd. 17. **Liability.** "Liability" means a secured or unsecured debt or an obligation for a future payment of money, including an actuarial accrued liability or an unfunded actuarial accrued liability, except where the context clearly indicates another meaning.

Subd. 18. **Office of the pension plan.** "Office of the pension plan" means an administrative facility or portion of a facility where the primary business or administrative affairs of a pension plan are conducted and the primary and permanent records and files of the plan are retained.

Subd. 19. **Pension fund.** "Pension fund" means the assets amassed and held in a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses. For a retirement plan governed by section 69.77 or by chapter 424A, the term means the relief association special fund.

Subd. 20. **Pension plan.** "Pension plan" means all aspects of an arrangement between a public employer and its employees concerning the pension benefit coverage provided to the employees.

Subd. 21. **Plan document.** "Plan document" means a written document or series of documents containing the eligibility requirements and entitlement provisions constituting the benefit coverage of a pension plan, including any articles of incorporation, bylaws, governing body rules and policies, municipal charter provisions, municipal ordinance provisions, or general or special state law.

Subd. 22. **Plan participant.** "Plan participant" means a person who is an active member of a pension plan by virtue of the person's employment or who is making a pension plan member contribution.

Subd. 23. **State Board of Investment.** "State Board of Investment" means the Minnesota State Board of Investment created by the Minnesota Constitution, article XI, section 8.

Subd. 24. **Statewide plan.** "Statewide plan" means any of the following pension plans:
(1) the Minnesota State Retirement System or a pension plan administered by it;
(2) the Public Employees Retirement Association or a pension plan administered by it; and
(3) the Teachers Retirement Association or a pension plan administered by it.

**History:** 1989 c 319 art 7 s 1; 2000 c 461 art 12 s 16; 2012 c 286 art 10 s 9

### 356A.02 FIDUCIARY STATUS AND ACTIVITIES.

Subdivision 1. **Fiduciary status.** For purposes of this chapter, the following persons are fiduciaries:
(1) any member of the governing board of a covered pension plan;
Subd. 2. **Fiduciary activity.** The activities of a fiduciary identified in subdivision 1 that must be carried out in accordance with the requirements of section 356A.04 include, but are not limited to:

1. the investment and reinvestment of plan assets;
2. the determination of benefits;
3. the determination of eligibility for membership or benefits;
4. the determination of the amount or duration of benefits;
5. the determination of funding requirements or the amounts of contributions;
6. the maintenance of membership or financial records;
7. the expenditure of plan assets; and
8. the selection of financial institutions and investment products.

**History:** 1989 c 319 art 7 s 2; 2000 c 461 art 12 s 17; 2007 c 133 art 3 s 3

### 356A.03 PROHIBITION OF CERTAIN PERSONS FROM FIDUCIARY STATUS.

Subdivision 1. **Individual prohibition.** For the prohibition period established by subdivision 2, a person, other than a constitutional officer of the state, who has been convicted of a violation listed in subdivision 3, may not serve in a fiduciary capacity identified in section 356A.02.

Subd. 2. **Prohibition period.** A prohibition under subdivision 1 is for a period of five years, beginning on the day following conviction for a violation listed in subdivision 3 or, if the person convicted is incarcerated, the day following unconditional release from incarceration.

Subd. 3. **Applicable violations.** A prohibition under subdivision 1 is imposed as a result of any of the following violations of law:

1. a violation of federal law specified in United States Code, title 29, section 1111, as amended;
2. a violation of Minnesota law that is a felony under Minnesota law; or
3. a violation of the law of another state, United States territory or possession, or federally recognized Indian tribal government, or of the Uniform Code of Military Justice, that would be a felony under the offense definitions and sentences in Minnesota law.

Subd. 4. **Documentation.** In determining the applicability of this section, the appropriate appointing authority, the State Board of Investment, or the covered pension plan, as the case may be, may rely on a disclosure form meeting the requirements of the federal Investment Advisers Act of 1940, as amended through June 2, 1989, and filed with the State Board of Investment or the pension plan.

**History:** 1989 c 319 art 7 s 3

### 356A.04 GENERAL STANDARD OF FIDUCIARY CONDUCT.

Subdivision 1. **Duty.** A fiduciary of a covered pension plan owes a fiduciary duty to:
Subd. 1. (1) the active, deferred, and retired members of the plan, who are its beneficiaries; 
(2) the taxpayers of the state or political subdivision, who help to finance the plan; and 
(3) the state of Minnesota, which established the plan.

Subd. 2. **Prudent person standard.** A fiduciary identified in section 356A.02 shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

**History:** 1989 c 319 art 7 s 4

### 356A.05 DUTIES APPLICABLE TO ALL ACTIVITIES.

(a) The activities of a fiduciary of a covered pension plan must be carried out solely for the following purposes:

1. to provide authorized benefits to plan participants and beneficiaries;
2. to incur and pay reasonable and necessary administrative expenses; or
3. to manage a covered pension plan in accordance with the purposes and intent of the plan document.

(b) The activities of fiduciaries identified in section 356A.02 must be carried out faithfully, without prejudice, and in a manner consistent with law and the plan document.

**History:** 1989 c 319 art 7 s 5

### 356A.06 INVESTMENTS; ADDITIONAL DUTIES.

**Subdivision 1. Authorized holder of assets; title to assets.** (a) Assets of a covered pension plan may be held only by:

1. the plan treasurer;
2. the State Board of Investment;
3. the depository agent of the plan;
4. a security broker or the broker's agent with, in either case, insurance equal to or greater than the plan assets held from the Securities Investor Protection Corporation or from excess insurance coverage; or
5. the depository agent of the State Board of Investment.

(b) Legal title to plan assets must be vested in the plan, the State Board of Investment, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title shall function as a trustee for a person or entity with a beneficial interest in the assets of the plan.

**Subd. 2. Diversification.** The investment of plan assets must be diversified to minimize the risk of substantial investment losses unless the circumstances at the time an investment is made clearly indicate that diversification would not be prudent.
Subd. 3. **Absence of personal profit.** No fiduciary may personally profit, directly or indirectly, as a result of the investment or management of plan assets. This subdivision, however, does not preclude the receipt by a fiduciary of reasonable compensation, including membership in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to the plan.

Subd. 4. **Economic interest statement.** (a) Each member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest.

(b) For a covered pension plan other than a plan specified in paragraph (c), the statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest.

(c) For a covered pension plan governed by sections 69.771 to 69.776 or a covered pension plan governed by section 69.77 with assets under $8,000,000, the statement must contain the following:

1. the person's principal occupation and principal place of business;
2. whether or not the person has an ownership of or interest of ten percent or greater in an investment security brokerage business, a real estate sales business, an insurance agency, a bank, a savings and loan, or another financial institution; and
3. any relationship or financial arrangement that can reasonably be expected to give rise to a conflict of interest.

(d) The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan.

(e) A disclosure form meeting the requirements of the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21 as amended, and filed with the State Board of Investment or the pension plan meets the requirements of this subdivision.

(f) The chief administrative officer of each covered pension plan, by January 15, annually, shall transmit a certified listing of all individuals who have filed statements of economic interest with the plan under this subdivision during the preceding 12 months and the address of the office referenced in paragraph (d) to the Campaign Finance and Public Disclosure Board.

Subd. 5. **Investment business recipient disclosure.** The chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the State Board of Investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the Legislative Commission on Pensions and Retirement within 90 days after the close of the fiscal year of the plan. For the State Board of Investment and a first class city teacher retirement fund association, a disclosure document included as part of a regular annual report of the board or of the first class city teacher retirement fund association when filed with the executive director of the Legislative Commission on Pensions and Retirement is considered to have been filed on a timely basis.

Subd. 6. **Limited list of authorized investment securities.** (a) Authority. This subdivision specifies the investment authority for a limited list plan. A limited list plan is a covered pension plan that does not:

1. have pension fund assets with a market value in excess of $1,000,000;
2. use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisers Act of 1940, or registered as an investment
advisor in accordance with sections 80A.58, and 80A.60, for the investment of at least 60 percent of its pension fund assets, calculated on market value;

(3) use the services of the State Board of Investment for the investment of at least 60 percent of its pension fund assets, calculated on market value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the State Board of Investment for the investment of at least 75 percent of its pension fund assets, calculated on market value.

(b) Investment agency appointment authority. The governing board of a covered pension plan may select and appoint investment agencies to act for or on its behalf.

(c) Savings accounts; similar vehicles. A limited list plan is authorized to invest in:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, that is insured by the National Credit Union Administration, or that is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118A.03;

(2) guaranteed investment contracts, limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this paragraph; and

(3) savings accounts, limited to those fully insured by federal agencies.

(d) Government-backed obligations. A limited list plan is authorized to invest in governmental obligations as further specified in this paragraph, including bonds, notes, bills, mortgages, and other evidences of indebtedness, if the issue is backed by the full faith and credit of the issuer or if the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which plans are authorized to invest under this paragraph are guaranteed or insured issues of:

(1) the United States, one of its agencies, one of its instrumentalities, or an organization created and regulated by an act of Congress;

(2) the Dominion of Canada or one of its provinces if the principal and interest are payable in United States dollars;

(3) a state or one of its municipalities, political subdivisions, agencies, or instrumentalities; or

(4) any United States government-sponsored organization of which the United States is a member if the principal and interest are payable in United States dollars.

(e) Corporate obligations. A limited list plan is authorized to invest in corporate obligations, including bonds, notes, debentures, transportation equipment obligations, or any other long-term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any of its states, or the Dominion of Canada or any of its provinces if:

(1) the principal and interest are payable in United States dollars; and

(2) the obligations are rated among the top four quality categories by a nationally recognized rating agency.

(f) Mutual fund authority, limited list authorized assets. Securities authorized under paragraphs (c) to (e) may be owned directly or through shares in exchange-traded funds, or through open-end mutual funds, or as units of commingled trusts.

(g) Extended mutual fund authority. Notwithstanding restrictions in other paragraphs of this subdivision, a limited list plan is authorized to invest the assets of the special fund in exchange-traded funds and open-end mutual funds, if their portfolio investments comply with the type of securities authorized for investment under section 356A.06, subdivision 7, paragraphs (c) to (g). Investments under this paragraph must not exceed 75 percent of the assets of the special fund, not including any money market investments through mutual or exchange-traded funds.

(h) Supplemental fund authority. The governing body of a limited list plan may certify special fund assets to the State Board of Investment for investment under section 11A.17.
(i) **Assets mix restrictions.** A limited list plan must conform to the asset mix limitations specified in section 356A.06, subdivision 7.

**Subd. 7. Expanded list of authorized investment securities.** (a) **Authority.** A covered pension plan not described by subdivision 6, paragraph (a), is an expanded list plan and shall invest its assets as specified in this subdivision. The governing board of an expanded list plan may select and appoint investment agencies to act for or on its behalf.

(b) **Securities generally; investment forms.** An expanded list plan is authorized to purchase, sell, lend, and exchange the investment securities authorized under this subdivision, including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned directly or through shares in exchange-traded or mutual funds, or as units in commingled trusts, subject to any limitations specified in this subdivision.

(c) **Government obligations.** An expanded list plan is authorized to invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness if the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph are guaranteed or insured issues of:

   (1) the United States, one of its agencies, one of its instrumentalities, or an organization created and regulated by an act of Congress;
   (2) the Dominion of Canada or one of its provinces if the principal and interest are payable in United States dollars;
   (3) a state or one of its municipalities, political subdivisions, agencies, or instrumentalities; and
   (4) a United States government-sponsored organization of which the United States is a member if the principal and interest are payable in United States dollars.

(d) **Investment-grade corporate obligations.** An expanded list plan is authorized to invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any of its states, or the Dominion of Canada or any of its provinces if:

   (1) the principal and interest are payable in United States dollars; and
   (2) the obligations are rated among the top four quality categories by a nationally recognized rating agency.

(e) **Below-investment-grade corporate obligations.** An expanded list plan is authorized to invest in unrated corporate obligations or in corporate obligations that are not rated among the top four quality categories by a nationally recognized rating agency if:

   (1) the aggregate value of these obligations does not exceed five percent of the covered pension plan's market value;
   (2) the covered pension plan's participation is limited to 50 percent of a single offering subject to this paragraph; and
   (3) the covered pension plan's participation is limited to 25 percent of an issuer's obligations subject to this paragraph.

(f) **Other obligations.** (1) An expanded list plan is authorized to invest funds in:

   (i) bankers acceptances and deposit notes if issued by a United States bank that is rated in the highest four quality categories by a nationally recognized rating agency;
   (ii) certificates of deposit if issued by a United States bank or savings institution rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies, or if issued by a credit union in an amount within the limit of the insurance coverage provided by the National Credit Union Administration;
   (iii) commercial paper if issued by a United States corporation or its Canadian subsidiary and if rated in the highest two quality categories by a nationally recognized rating agency;
(iv) mortgage securities and asset-backed securities if rated in the top four quality categories by a nationally recognized rating agency;

(v) repurchase agreements and reverse repurchase agreements if collateralized with letters of credit or securities authorized in this section;

(vi) guaranteed investment contracts if issued by an insurance company or a bank that is rated in the top four quality categories by a nationally recognized rating agency or alternative guaranteed investment contracts if the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts if fully insured by a federal agency; and

(viii) guaranty fund certificates, surplus notes, or debentures if issued by a domestic mutual insurance company.

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), an expanded list plan is authorized to purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

(g) Corporate stocks. An expanded list plan is authorized to invest in stocks or convertible issues of any corporation organized under the laws of the United States or any of its states, any corporation organized under the laws of the Dominion of Canada or any of its provinces, or any corporation listed on an exchange that is regulated by an agency of the United States or of the Canadian national government.

An investment in any corporation must not exceed five percent of the total outstanding shares of that corporation, except that an expanded list plan may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed mutual fund.

(h) Other investments. (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), an expanded list plan is authorized to invest funds in:

(i) equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(iv) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made under clause (1), items (i), (ii), and (iii), may not exceed 35 percent of the market value of the fund for which the expanded list plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the expanded list plan for investments made under clause (1), item (i), (ii), or (iii);

(iii) the expanded list plan's participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii);
(iv) the expanded list plan's participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The expanded list plan may not engage in any activity as a limited partner which creates general liability; and
(v) for volunteer firefighter relief associations, emerging market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

(i) **Supplemental plan investments.** The governing body of an expanded list plan may certify assets to the State Board of Investment for investment under section 11A.17.

(j) **Asset mix limitations.** The aggregate value of an expanded list plan's investments under paragraphs (g) and (h) and equity investments under paragraph (i), regardless of the form in which these investments are held, must not exceed 85 percent of the covered plan's market value.

Subd. 7a. **Restrictions.** Any agreement to lend securities must be concurrently collateralized with cash or securities with a market value of not less than 100 percent of the market value of the loaned securities at the time of the agreement. For a covered pension authorized to purchase put and call options and futures contracts under subdivision 7, any agreement for put and call options and futures contracts may only be entered into with a fully offsetting amount of cash or securities. Only securities authorized by this section, excluding those under subdivision 7, paragraph (g), clause (1), items (i) to (iv), may be accepted as collateral or offsetting securities.

Subd. 8. **Minimum liquidity requirements.** A covered pension plan described by subdivision 6 or 7, in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

Subd. 8a. **Collateralization requirement.** (a) The governing board of a covered pension plan shall designate a national bank, an insured state bank, an insured credit union, or an insured thrift institution as the depository for the pension plan for assets not held by the pension plan's custodian bank.

(b) Unless collateralized as provided under paragraph (c), a covered pension plan may not deposit in a designated depository an amount in excess of the insurance held by the depository in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, whichever applies.

(c) For an amount greater than the insurance under paragraph (b), the depository must provide collateral in compliance with section 118A.03 or with any comparable successor enactment relating to the collateralization of municipal deposits.

Subd. 8b. **Disclosure of investment authority; receipt of statement.** (a) For this subdivision, the term "broker" means a broker, broker-dealer, investment advisor, investment manager, or third-party agent who transfers, purchases, sells, or obtains investment securities for, or on behalf of, a covered pension plan.

(b) Before a covered pension plan may complete an investment transaction with or in accord with the advice of a broker, the covered pension plan shall provide annually to the broker a written statement of investment restrictions applicable under state law to the covered pension plan or applicable under the pension plan governing board investment policy.

(c) A broker must acknowledge in writing annually the receipt of the statement of investment restrictions and must agree to handle the covered pension plan's investments and assets in accord with the provided investment restrictions. A covered pension plan may not enter into or continue a business
arrangement with a broker until the broker has provided this written acknowledgment to the chief administrative officer of the covered pension plan.

(d) If any portion of the plan's assets are held by a security broker or its agent, the security broker or its agent must acknowledge in writing annually that sufficient insurance has been obtained from the Securities Investor Protection Corporation, supplemented by additional insurance, if necessary, to cover the full amount of covered pension plan assets held by the security broker or its agent. Uniform acknowledgment forms prepared by the state auditor shall be used by covered pension plans and brokers to meet the requirements of this subdivision.

Subd. 9. Prohibited transactions. (a) No fiduciary of a covered pension plan may engage in a prohibited transaction or allow the plan to engage in a transaction that the fiduciary knows or should know is a prohibited transaction.

(b) A prohibited transaction is any of the following transactions, whether direct or indirect:

1. the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;
2. the lending of money or other extension of credit between the plan and a fiduciary of the plan;
3. the furnishing to a plan by a fiduciary for compensation or remuneration, of goods, services other than those performed in the capacity of fiduciary, or facilities;
4. the furnishing to a fiduciary by a plan of goods, services, or facilities other than office and related space, equipment and office supplies, and administrative services appropriate to the recipient's fiduciary position;
5. the transfer of plan assets to a plan fiduciary for use by or for the benefit of the fiduciary, other than the payment of retirement plan benefits to which a fiduciary is entitled or the payment to a fiduciary of a reasonable salary and of necessary and reasonable expenses incurred by the fiduciary in the performance of the fiduciary's duties; and
6. the sale, exchange, loan, or lease of any item of value between a plan and a fiduciary of the plan other than for a fair market value and as a result of an arm's-length transaction.

Subd. 10. Defined contribution plans; application. (a) To the extent that a plan governed by chapter 352D, 353D, 354B, 354C, or 354D permits a participant or beneficiary to select among investment products for the person's account and the participant or beneficiary exercises that investment self-direction, no fiduciary is liable for any loss which may result from the participant's or beneficiary's exercise of that investment self-direction.

(b) Subdivisions 1, 2, 6, 8, and 8a do not apply to plans governed by chapter 354B or 354C.

History: 1989 c 319 art 7 s 6; 1990 c 570 art 5 s 1; 1994 c 604 art 2 s 3; 1995 c 122 s 2; 1995 c 262 art 6 s 1,2; 1996 c 399 art 2 s 12; 1996 c 438 art 4 s 7; art 10 s 2; 1997 c 202 art 2 s 63; 1998 c 386 art 2 s 90; 2000 c 461 art 12 s 18; 1Sp2001 c 10 art 3 s 26; 2002 c 363 s 41; 1Sp2005 c 8 art 9 s 9; art 10 s 66; 2006 c 196 art 1 s 52; art 2 s 12; 2006 c 271 art 8 s 6; 2007 c 134 art 1 s 11; 2008 c 349 art 14 s 3-5; 2010 c 359 art 13 s 3; 2012 c 286 art 10 s 10,11

356A.07 BENEFIT SUMMARY; ANNUAL REPORTS; ADDITIONAL DUTIES.

Subdivision 1. Benefit provisions summary. The chief administrative officer of a covered pension plan shall prepare and provide each active plan participant with a summary of the benefit provisions of the plan document. The summary must be provided within 30 days of the start or resumption of a participant's membership in the plan, or within 30 days of the date on which the start or resumption of membership was reported to a covered pension plan by a covered governmental entity,
whichever is later. The summary must contain a notice that it is a summary of the plan document but is not itself the plan document, and that in the event of a discrepancy between the summary and the plan document as amended, the plan document governs. A copy of the plan document as amended must be furnished to a plan participant or benefit recipient upon request. The chief administrative officer may utilize the services of the covered governmental entity in providing the summary. The summary must be in a form reasonably calculated to be understood by an average plan participant.

Subd. 2. **Annual financial report.** A covered pension plan shall provide each active plan participant and benefit recipient with a copy of the most recent annual financial report required by section 356.20 and a copy of the most recent actuarial evaluation, if any, required by section 69.77, 69.773, 356.215, or 356.216, or a summary of those reports.

Subd. 3. **Distribution.** A covered pension plan may distribute the summaries required by this section through covered governmental entities so long as the plan has made arrangements with the entities to assure, with reasonable certainty, that the summaries will be distributed, or made easily available, to active plan participants.

Subd. 4. **Review procedure.** If a review procedure is not specified by law for a covered pension plan, the chief administrative officer of the plan shall propose, and the governing board of the plan shall adopt and implement, a procedure for reviewing a determination of eligibility, benefits, or other rights under the plan that is adverse to a plan participant or benefit recipient. The review procedure must include provisions for timely notice to the plan participant or benefit recipient and reasonable opportunity to be heard in any review proceeding conducted and may, but need not be, a contested case under chapter 14.

**History:** 1989 c 319 art 7 s 7

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**356A.08 PLAN ADMINISTRATION; ADDITIONAL DUTIES.**

Subdivision 1. **Public meetings.** A meeting of the governing board of a covered pension plan or of a committee of the governing board of the covered pension plan is governed by chapter 13D.

Subd. 2. **Limit on compensation.** No fiduciary of a covered pension plan or a direct relative of a fiduciary may receive any direct or indirect compensation, fee, or other item of more than nominal value from a third party in consideration for a pension plan disbursement.

**History:** 1989 c 319 art 7 s 8; 1Sp2001 c 10 art 4 s 2

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**356A.09 FIDUCIARY BREACH; REMEDIES.**

Subdivision 1. **Occurrence of breach.** A fiduciary breach occurs if a fiduciary violates the general standard of fiduciary conduct as specified in section 356A.04 in carrying out the activities of a fiduciary. A fiduciary breach also occurs if a fiduciary of a covered pension plan violates the provisions of section 356A.06, subdivision 9.
Subd. 2. Remedies. Remedies available for a fiduciary breach by a fiduciary are those specified by statute or available at common law.

History: 1989 c 319 art 7 s 9

356A.10 COFIDUCIARY RESPONSIBILITY AND LIABILITY.

Subdivision 1. Cofiduciary responsibility in general. A cofiduciary has a general responsibility to oversee the fiduciary activities of all other fiduciaries unless the activity has been allocated or delegated in accordance with subdivision 3. A cofiduciary also has a general responsibility to correct or alleviate a fiduciary breach of which the cofiduciary had or ought to have had knowledge.

Subd. 2. Cofiduciary liability. A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other fiduciary or to correct or alleviate a breach by that fiduciary.

Subd. 3. Limitation on cofiduciary responsibility. A cofiduciary may limit cofiduciary responsibility and liability through the allocation or delegation of fiduciary activities if the allocation or delegation:

(1) follows appropriate procedures;
(2) is made to an appropriate person or persons; and
(3) is subject to continued monitoring of performance.

Subd. 4. Bar to liability in certain instances. A properly made delegation or allocation of a fiduciary activity is a bar to liability on the part of a fiduciary making the delegation or allocation unless the fiduciary has or ought to have knowledge of the breach and takes part in the breach, conceals it, or fails to take reasonable steps to remedy it.

Subd. 5. Extent of cofiduciary liability. Unless liability is barred under subdivision 4, cofiduciary liability is joint and several, but a cofiduciary has the right to recover from the responsible fiduciary for any damages paid by the cofiduciary.

History: 1989 c 319 art 7 s 10

356A.11 FIDUCIARY INDEMNIFICATION.

Subdivision 1. Indemnified fiduciaries. A fiduciary who is a member of the governing board of a pension plan, the State Board of Investment or the Investment Advisory Council, or who is an employee of a covered pension plan or of the State Board of Investment may be indemnified from liability for fiduciary breach. Indemnification is at the discretion of the governing board of the plan or of the State Board of Investment in the case of members of the state board or of the Investment Advisory Council. A decision to indemnify a fiduciary must apply to all eligible fiduciaries of similar rank.
Subd. 2. **Allowable indemnification.** An indemnified fiduciary must be held harmless from reasonable costs or expenses incurred as a result of any actual or threatened litigation or other proceedings.

**History:** 1989 c 319 art 7 s 11

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**356A.12 JURISDICTION; SERVICE OF PROCESS; AND STATUTE OF LIMITATIONS.**

Subdivision 1. **Jurisdiction.** The district court has jurisdiction over a challenge of a fiduciary action or inaction.

Subd. 2. **Service of process.** For a fiduciary or cofiduciary alleged in the complaint to be responsible for an alleged breach, personal service of process must be obtained.

Subd. 3. **Limitations on legal actions.** A legal action challenging a fiduciary action or inaction must be timely. Notwithstanding any limitation in chapter 541, an action is timely if it is brought within the earlier of the following periods:

1. The period ending three years after the date of the last demonstrable act representing the alleged fiduciary breach or after the final date for performance of the act the failure to perform which constitutes the alleged breach; or
2. The period ending one year after the date of the discovery of the alleged fiduciary breach.

**History:** 1989 c 319 art 7 s 12

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**356A.13 CONTINUING FIDUCIARY EDUCATION.**

Subdivision 1. **Obligation of fiduciaries.** A fiduciary of a covered pension plan shall make reasonable effort to obtain knowledge and skills sufficient to enable the fiduciary to perform fiduciary activities adequately. At a minimum, a fiduciary of a covered pension plan shall comply with the program established in accordance with subdivision 2.

Subd. 2. **Continuing fiduciary education program.** The governing boards of covered pension plans shall each develop and periodically revise a program for the continuing education of any of their board members and any of their chief administrative officers who are not reasonably considered to be experts with respect to their activities as fiduciaries. The program must be designed to provide those persons with knowledge and skills sufficient to enable them to perform their fiduciary activities adequately.

**History:** 1989 c 319 art 7 s 13
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420.20 PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

History: 2009 c 169 art 10 s 7
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Minnesota Statutes
Chapter 424A

Volunteer Firefighters’ Retirement

(§§ 424A.001 - .10)
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424A.001 DEFINITIONS.

Subdivision 1. Terms defined. Unless the context clearly indicates otherwise, as used in this chapter, the terms defined in this section have the meanings given.

Subd. 1a. Ancillary benefit. "Ancillary benefit" means a benefit payable from the special fund of the relief association other than a service pension that is permitted by law and that is provided for in the relief association bylaws.

Subd. 1b. Defined benefit relief association. "Defined benefit relief association" means a volunteer firefighters' relief association that provides a lump-sum service pension, provides a monthly benefit service pension, or provides a lump-sum service pension as an alternative to the monthly benefit service pension.

Subd. 1c. Defined contribution relief association. "Defined contribution relief association" means a volunteer firefighters' relief association that provides a service pension based solely on an individual account balance rather than a specified annual lump-sum or monthly benefit service pension amount.

Subd. 2. Fire department. "Fire department" includes a municipal fire department or an independent nonprofit firefighting corporation.

Subd. 3. Municipality. "Municipality" means a municipality which has established a fire department with which the relief association is directly associated, or the municipalities which have entered into a contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.

Subd. 4. Relief association. (a) "Relief association" or "volunteer firefighters' relief association" means a volunteer firefighters' relief association or a volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association that is:

(1) organized and incorporated as a nonprofit corporation to provide retirement benefits to volunteer firefighters under chapter 317A and any laws of the state;
(2) governed by this chapter and sections 69.771 to 69.775; and
(3) directly associated with:
   (i) a fire department established by municipal ordinance;
   (ii) an independent nonprofit firefighting corporation that is organized under the provisions of chapter 317A and that operates primarily for firefighting purposes; or
   (iii) a fire department operated as or by a joint powers entity that operates primarily for firefighting purposes.

(b) "Relief association" or "volunteer firefighters' relief association" does not mean:

(1) the Bloomington Fire Department Relief Association governed by section 69.77; Minnesota Statutes 2000, chapter 424; and Laws 1965, chapter 446, as amended; or
(2) the voluntary statewide lump-sum volunteer firefighter retirement plan governed by chapter 353G.

(c) A relief association or volunteer firefighters' relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.
Subd. 5. **Special fund.** "Special fund" means the special fund of a volunteer firefighters' relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters' relief association.

Subd. 6. [Repealed, 2010 c 359 art 13 s 13]

Subd. 7. [Repealed, 2009 c 169 art 10 s 58]

Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality approves for a fire department that is a municipal department, or if the applicable contracting municipality or municipalities approve for a fire department that is an independent nonprofit firefighting corporation, includes fire department service rendered by fire prevention personnel.

Subd. 9. **Separate from active service.** "Separate from active service" means that a firefighter permanently ceases to perform fire suppression duties with a particular volunteer fire department, permanently ceases to perform fire prevention duties, permanently ceases to supervise fire suppression duties, and permanently ceases to supervise fire prevention duties.

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who either:

1. was a member of the applicable fire department or the independent nonprofit firefighting corporation and a member of the relief association on July 1, 2006; or
2. became a member of the applicable fire department or the independent nonprofit firefighting corporation and is eligible for membership in the applicable relief association after June 30, 2006, and
   i. is engaged in providing emergency response services or delivering fire education or prevention services as a member of a municipal fire department, a joint powers entity fire department, or an independent nonprofit firefighting corporation;
   ii. is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under subdivision 8; and
   iii. meets any other minimum firefighter and service standards established by the fire department or the independent nonprofit firefighting corporation or specified in the articles of incorporation or bylaws of the relief association.

**History:** 1983 c 219 s 4; 1986 c 359 s 18,19; 1Sp1986 c 3 art 2 s 40; 1989 c 304 s 137; 1989 c 319 art 8 s 26; 1996 c 438 art 8 s 1,2; 2000 c 461 art 15 s 4; 2006 c 271 art 13 s 2,7; 2008 c 349 art 14 s 6,7; 2009 c 169 art 10 s 8-19; 2012 c 286 art 12 s 9

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**424A.002 AUTHORIZATION OF NEW OR CONTINUING VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.**

Subdivision 1. **Authorization.** A municipal fire department or an independent nonprofit firefighting corporation, with approval by the applicable municipality or municipalities, may establish a new volunteer firefighters' relief association or may retain an existing volunteer firefighters' relief association.

Subd. 2. **Defined benefit or defined contribution relief association.** The articles of incorporation or the bylaws of the volunteer firefighters' relief association must specify that the relief
association is either a defined benefit relief association subject to sections 69.771 to 69.774, 424A.015, and 424A.02 or is a defined contribution relief association subject to sections 424A.015 and 424A.016.

History: 2009 c 169 art 10 s 20

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. Minors. No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.

Subd. 2. Status of substitute volunteer firefighters. No person who is serving as a substitute volunteer firefighter may be considered to be a firefighter for purposes of chapter 69 or this chapter and no substitute volunteer firefighter is authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. Status of nonmember volunteer firefighters. No person who is serving as a firefighter in a fire department but who is not a member of the applicable firefighters' relief association is entitled to any service pension or ancillary benefits from the relief association.

Subd. 3a. [Repealed, 1989 c 319 art 10 s 8]

Subd. 4. Exclusion of persons constituting an unwarranted health risk. The board of trustees of every relief association may exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, is determined to constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section 363A.25, it is a good and valid defense to a complaint or action brought under chapter 363A that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: (1) the person's medical history; and (2) the report of the physician completing a physical examination of the applicant undertaken at the expense of the relief association.

Subd. 5. Fire prevention personnel. (a) If the fire department is a municipal department and the applicable municipality approves, or if the fire department is an independent nonprofit firefighting corporation and the contracting municipality or municipalities approve, the fire department may employ or otherwise utilize the services of persons as volunteer firefighters to perform fire prevention duties and to supervise fire prevention activities.

(b) Personnel serving in fire prevention positions are eligible to be members of the applicable volunteer firefighter relief association and to qualify for service pension or other benefit coverage of the relief association on the same basis as fire department personnel who perform fire suppression duties.

(c) Personnel serving in fire prevention positions also are eligible to receive any other benefits under the applicable law or practice for services on the same basis as personnel who are employed to perform fire suppression duties.
Subd. 6. Return to active firefighting after break in service. (a) The requirements of this section apply to all breaks in service, except breaks in service mandated by federal or state law.

(b)(1) If a firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the firefighter may again become an active member of the relief association. A firefighter who returns to active service and membership is subject to the service pension calculation requirements under this section.

(2) A firefighter who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(3) A person who has a break in service not exceeding one year but has not been granted an approved leave of absence and who has not received a service pension or disability benefit may be made exempt from the minimum period of resumption service requirement of this section by the relief association bylaws.

(4) If the bylaws so provide, a firefighter who returns to active relief association membership under this paragraph may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under chapter 424A.

(c) If a former firefighter who has received a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2. No firefighter may be paid a service pension more than once for the same period of service.

(d) If a former firefighter who has not received a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the original and resumption service periods if the firefighter meets the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the original and resumption years of service credit.

(e) A firefighter who returns to active lump-sum relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service.

(f) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (b), who did not meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active lump-sum relief association membership under this paragraph, but who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(g) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (b), and if the relief association bylaws do not allow for the firefighter to continue collecting a monthly service pension, any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which
the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (c), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. A suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(h) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (b), who did not meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active relief association membership under this paragraph, but who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(i) For defined contribution plans, a firefighter who returns to active relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, and if the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, based on the resumption years of service, a second service pension for the resumption service period must be calculated to include allocations credited to the firefighter's individual account during the resumption period of service and deductions for administrative expenses, if applicable.

(j) For defined contribution plans, if a firefighter who had not been paid a service pension returns to active relief association membership under paragraph (b), and who meets the minimum service requirement of section 424A.016, subdivision 3, based on the firefighter's original and resumption years of service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated to include allocations credited to the firefighter's individual account during the resumption period of service and deductions for administrative expenses, if applicable, less any amounts previously forfeited under section 424A.016, subdivision 4.

History: 1979 c 201 s 11; 1981 c 224 s 274; 1982 c 460 s 7; 1983 c 219 s 5; 1989 c 319 art 10 s 2; 1996 c 438 art 8 s 3; 2009 c 169 art 10 s 21; 2010 c 359 art 13 s 4,5; 2012 c 286 art 12 s 10

424A.015 GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION PENSION PLAN REGULATION.

Subdivision 1. Separation from active service; exception. (a) No service pension is payable to a person while the person remains an active member of the respective fire department, and a person who is receiving a service pension is not entitled to receive any other benefits from the special fund of the relief association.
(b) No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

Subd. 2. **No assignment or garnishment.** A service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits is not subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, and the association does not have the authority to recognize any assignment or pay over any sum which has been assigned.

Subd. 3. **Purchase of annuity contract.** A relief association that provides a service pension in a single payment, if the governing articles of incorporation or bylaws so provide, may purchase an annuity contract on behalf of a retiring member in an amount equal to the service pension otherwise payable at the request of the person and in place of a direct payment to the person. The annuity contract must be purchased from an insurance carrier licensed to do business in this state.

Subd. 4. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, and that provides a single payment service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension or the death or survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the Internal Revenue Code, as amended.

Subd. 5. **Minnesota deferred compensation plan transfers.** A relief association may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension amount to the requesting member's account in the Minnesota deferred compensation plan, if:

(1) the governing articles of incorporation or bylaws so provide;

(2) the volunteer firefighter participates in the Minnesota deferred compensation plan at the time of retirement; and

(3) the applicable retiring firefighter requests in writing that the relief association do so.

**History:** 2009 c 169 art 10 s 22; 2010 c 359 art 13 s 6
424A.016 DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.

Subdivision 1. Defined contribution relief association authorization. If the articles of incorporation or the bylaws governing the volunteer firefighters' relief association so provide exclusively, the relief association may pay a defined contribution lump-sum service pension instead of a defined benefit service pension governed by section 424A.02.

Subd. 2. Defined contribution service pension eligibility. (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined contribution service pension to each of its members who:

1. Separates from active service with the fire department;
2. Reaches age 50;
3. Completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated;
4. Completes at least five years of active membership with the relief association before separation from active service; and
5. Complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive any disability benefit coverage, is not entitled to receive additional individual account allocation of fire state aid or municipal contribution towards a service pension, and is considered to have the status of a person entitled to a deferred service pension.

(c) The service pension earned by a volunteer under this chapter and the articles of incorporation and bylaws of the relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

Subd. 3. Reduced vesting schedule. If the articles of incorporation or bylaws of a defined contribution relief association so provide, a relief association may pay a reduced service pension not to exceed the nonforfeitable percentage of the account balance to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 2. The nonforfeitable percentage of pension amounts are as follows:

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<thead>
<tr>
<th>Completed Years of Service</th>
<th>Nonforfeitable Percentage of Pension Amount</th>
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<tbody>
<tr>
<td>5</td>
<td>40 percent</td>
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<td>6</td>
<td>52 percent</td>
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<td>64 percent</td>
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<td>76 percent</td>
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<td>9</td>
<td>88 percent</td>
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<td>10 and thereafter</td>
<td>100 percent</td>
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Subd. 4. Individual accounts. (a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

(1) any amounts of fire state aid received by the relief association;

(2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and

(3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) If the bylaws so permit and as the bylaws define, the relief association may credit any investment return on the assets of the special fund to the accounts of inactive members.

(d) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

(e) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

(f) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

Subd. 5. Service pension installment payments. (a) A defined contribution relief association, if the governing bylaws so provide, may pay, at the option of the intended recipient and in lieu of a single payment of a service pension or a survivor benefit, the service pension or survivor benefit in installments.

(b) The election of installment payments is irrevocable and must be made by the intended recipient in writing and filed with the secretary of the relief association no later than 30 days before the commencement of payment of the service pension or survivor benefit.

(c) The amount of the installment payments must be the fractional portion of the remaining account balance equal to one divided by the number of remaining annual installment payments.

Subd. 6. Deferred service pensions. (a) A member of a relief association is entitled to a deferred service pension if the member:
(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the accounting date on which the investment return is recognized by and credited to the special fund.

(d) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

(e) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

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 and 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) (1) If a survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(i) as a survivor benefit to the surviving spouse of the deceased firefighter;

(ii) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;
(iii) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(iv) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

(2) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a trust created under chapter 501B may be a designated beneficiary. If a trust payable to the surviving children organized under chapter 501B has been established as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding the requirements of this section.

Subd. 8. **Filing of bylaw amendments.** Each relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

**History:** 2009 c 169 art 10 s 23; 2010 c 359 art 13 s 7, 8; 2012 c 286 art 12 s 11, 12

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

**Subdivision 1. Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.
(c) No municipality or nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

Subd. 2. **Nonforfeitable portion of service pension.** (a) If the articles of incorporation or bylaws of a defined benefit relief association so provide, the relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

(b) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws multiplied by the applicable nonforfeitable percentage of pension.

(c) For a defined benefit volunteer firefighter relief association that pays a lump-sum service pension, a monthly benefit service pension, or a lump-sum service pension or a monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage of pension amounts are as follows:

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<thead>
<tr>
<th>Completed Years of Service</th>
<th>Nonforfeitable Percentage of Pension Amount</th>
<th>Completed Years of Service</th>
<th>Nonforfeitable Percentage of Pension Amount</th>
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<td>44 percent</td>
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<tr>
<td>7</td>
<td>48 percent</td>
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</tr>
<tr>
<td>8</td>
<td>52 percent</td>
<td>16</td>
<td>84 percent</td>
</tr>
<tr>
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<td>56 percent</td>
<td>17</td>
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</tr>
<tr>
<td>10</td>
<td>60 percent</td>
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</tr>
<tr>
<td>11</td>
<td>64 percent</td>
<td>19</td>
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</tr>
<tr>
<td>12</td>
<td>68 percent</td>
<td>20</td>
<td>100 percent</td>
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</tbody>
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Subd. 3. **Flexible service pension maximums.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing includes any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the defined benefit relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a defined benefit relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available
financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

<table>
<thead>
<tr>
<th>Minimum Average Amount of Available Financing per Firefighter</th>
<th>Maximum Service Pension Amount Payable per Month for Each Year of Service</th>
<th>Minimum Average Amount of Available Financing per Firefighter</th>
<th>Maximum Service Pension Amount Payable per Month for Each Year of Service</th>
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<td>Minimum Average Amount of Available Financing per Firefighter</td>
<td>Maximum Service Pension Amount Payable per Month for Each Year of Service</td>
<td>Minimum Average Amount of Available Financing per Firefighter</td>
<td>Maximum Service Pension Amount Payable per Month for Each Year of Service</td>
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</table>

(d) For a defined benefit relief association in which the governing bylaws provide for a lump-sum service pension to a retiring member, the maximum lump-sum service pension amount for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

<table>
<thead>
<tr>
<th>Minimum Average Amount of Available Financing per Firefighter</th>
<th>Maximum Service Pension Amount Payable per Month for Each Year of Service</th>
<th>Minimum Average Amount of Available Financing per Firefighter</th>
<th>Maximum Service Pension Amount Payable per Month for Each Year of Service</th>
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<td>Minimum Average Amount of Available Financing per Firefighter</td>
<td>Maximum Service Pension Amount Payable per Month for Each Year of Service</td>
<td>Minimum Average Amount of Available Financing per Firefighter</td>
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<td>5181</td>
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(e) For a defined benefit relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump-sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a defined benefit relief association establishes a service pension in compliance with the applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No defined benefit relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.

(h) The method of calculating service pensions must be applied uniformly for all years of active service. Credit must be given for all years of active service except for caps on service credit if so provided in the bylaws of the relief association.

Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a) If a defined benefit relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

1. disqualify the municipality or the nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and
2. order the treasurer of the applicable relief association to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.
The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

Subd. 4. [Repealed, 2009 c 169 art 10 s 58]

Subd. 5. [Repealed, 1999 c 222 art 11 s 1]

Subd. 6. [Repealed, 2009 c 169 art 10 s 58]

Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member:

1. has completed the lesser of either the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;
2. has completed at least five years of active membership in the relief association; and
3. separates from active service and membership. The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

1. at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association;
2. at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or
3. at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause (3), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

(e) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

1. for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or
2. for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.
(f) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump-sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

(g) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Subd. 8. **Lump-sum service pensions; installment payments.** (a) A defined benefit relief association, if the governing bylaws so provide, may pay, at the option of the intended recipient and in lieu of a single payment of a lump-sum service pension or survivor benefit, a lump-sum service pension or survivor benefit in installments.

(b) The election of installment payments is irrevocable and must be made by the intended recipient in writing and filed with the secretary of the relief association no later than 30 days before the commencement of payment of the service pension or survivor benefit. The amount of the installment payments must be determined in any reasonable manner provided for in the governing bylaws, but the total amount of installment payments may not exceed the single payment service pension amount plus interest at an annual rate of five percent on the amount of delayed payments for the period during which payment was delayed.

Subd. 8a. [Repealed, 2009 c 169 art 10 s 58]

Subd. 8b. [Repealed, 2009 c 169 art 10 s 58]

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 solely for a lump-sum service pension to a retiring member, or provide a retiring member the choice of either a lump-sum service pension or a monthly service pension and the lump-sum service pension was chosen, 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)(i) If a lump sum survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:
   (A) as a survivor benefit to the surviving spouse of the deceased firefighter;
   (B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;
   (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or
   (D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving children and no beneficiary designated.

   (ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(4)(i) If a monthly benefit survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:
   (A) as a survivor benefit to the surviving spouse of the deceased firefighter;
   (B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;
   (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or
   (D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

   (ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

   (iii) For purposes of this clause, if the relief association bylaws authorize a monthly survivor benefit payable to a designated beneficiary, the relief association bylaws may limit the total survivor benefit amount 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 trust created under chapter 501B may be a designated beneficiary. If a trust is payable to the surviving children organized under chapter 501B as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this section to the contrary.

Subd. 9a. Postretirement increases. Notwithstanding any provision of general or special law to the contrary, a defined benefit relief association paying a monthly service pension may provide a postretirement increase to retired members and ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The postretirement increase is applicable only to retired members and ancillary benefit recipients receiving a service pension or ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a postretirement increase to retired members and ancillary benefit recipients of a relief association contained in this subdivision supersedes any prior special law authorization relating to the provision of postretirement increases.

Subd. 9b. [Repealed, 2009 c 169 art 10 s 58]
Subd. 10. Local approval of bylaw amendments; filing requirements. (a) Each defined benefit relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding under section 69.772, subdivision 3, paragraph (c), clause (5), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized under section 69.80 payable from the special fund of the relief association is effective until it has been ratified as required under section 69.772, subdivision 6, or 69.773, subdivision 6. If the special fund of the relief association has a surplus over full funding under section 69.772, subdivision 3, or 69.773, subdivision 4, and if the municipality is not required to provide financial support to the special fund under this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund if authorized under section 69.772, subdivision 6, or 69.773, subdivision 6.

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification under this section, and, subsequent to the amendment or adoption, the financial requirements of the special fund under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification, and any service pensions or ancillary benefits payable after that date must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

Subd. 11. [Repealed, 2000 c 461 art 16 s 13]

Subd. 12. Transfer of service credit to new district. Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' defined benefit relief association is entitled to a nonforfeitable service pension from the new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension is based upon years of service in the new department only and must be in an amount equal to the accrued liability for the appropriate years of service calculated in accordance with section 69.772, subdivision 2.

Subd. 13. Combined service pensions. (a) If the articles of incorporation or bylaws of the defined benefit relief associations so provide, a volunteer firefighter with credit for service as an active firefighter in more than one defined benefit volunteer firefighters relief association is entitled, when the
applicable requirements of paragraph (b) are met and when otherwise qualified, to a prorated service credit from each relief association.

(b) A volunteer firefighter receiving a prorated service pension under this subdivision must have a total amount of service credit of ten years or more, if the bylaws of every affected relief association do not specify only a five-year service vesting requirement, or five years or more, if the bylaws of every affected relief association require only a five-year service vesting requirement, as a member of two or more relief associations otherwise qualified. The member must have one year or more of service credit in each relief association. The prorated service pension must be based on the service pension amount in effect for the relief association on the date on which active volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and must give notice of membership to the prior association within two years of the date of termination of active service with the prior association. The notice must be attested to by the second or subsequent relief association secretary.

History: 1979 c 201 s 12; 1980 c 607 art 15 s 11; 1981 c 224 s 208,209,274; 1982 c 421 s 3; 1982 c 460 s 8; 1982 c 465 s 7,8; 1983 c 219 s 6; 1983 c 286 s 21; 1983 c 289 s 114 subd 1; 1984 c 547 s 15; 1984 c 655 art 1 s 92; 1985 c 261 s 8-10; 1Sp1985 c 7 s 35; 1987 c 372 art 1 s 22; 1988 c 668 s 9; 1988 c 709 art 7 s 2,3; 1989 c 319 art 10 s 3-6; 1990 c 570 art 14 s 1; 1993 c 244 art 1 s 1-3; art 3 s 1; 1996 c 438 art 8 s 4; 1997 c 203 art 6 s 92; 1997 c 241 art 6 s 1; art 10 s 5; 2000 c 461 art 15 s 5-9; 2002 c 392 art 13 s 1; 1Sp2003 c 12 art 12 s 1; 2004 c 267 art 14 s 1,2,5; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 1Sp2005 c 8 art 9 s 10-12; 2006 c 271 art 13 s 3; 2008 c 277 art 1 s 83; 2008 c 349 art 14 s 8-10; 2009 c 169 art 10 s 24-35; 2010 c 359 art 13 s 9,10; 2012 c 382 s 73,87; 2012 c 286 art 12 s 13-15

424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. Authorization. Subject to restrictions stated in this section, a volunteer firefighter who is absent from firefighting service due to service in the uniformed services, as defined in United States Code, title 38, section 4303(13), may obtain service credit if the relief association is a defined benefit plan or an allocation by the relief association as though the person was an active member if the relief association is a defined contribution plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under United States Code, title 38, section 4312.

Subd. 2. Limitations. (a) To be eligible for service credit or an allocation as though an active member under this section, the volunteer firefighter must return to firefighting service with coverage by the same relief association or by the successor to that relief association upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e).

(b) Service credit or an allocation as though an active member is not authorized if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(c) Service credit or an allocation as though an active member is not authorized if the firefighter fails to provide notice to the fire department that the individual is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

History: 1Sp2005 c 8 art 9 s 13; 2009 c 169 art 10 s 36
424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE PENSION AND RETIREMENT BENEFITS.

Subdivision 1. **Limitation on nonuniformity of pensions.** Every partially salaried and partially volunteer firefighters' relief association must provide service pensions to volunteer firefighter members based on the years of service of the members not on the compensation paid to the members for firefighting services. Each relief association must provide service pensions to salaried members as set forth in chapter 424 and applicable special laws.

Subd. 2. **Penalties for violations.** A municipality which has a fire department associated with a relief association which violates the provisions of subdivision 1 is directly associated or which contracts with an independent nonprofit firefighting corporation associated with a relief association which violates the provisions of subdivision 1 is a subsidiary may not be included in the apportionment of fire state aid to the applicable county auditor under section 69.021, subdivision 6, and may not be included in the apportionment of fire state aid by the county auditor to the various municipalities under section 69.021, subdivision 7.

Subd. 3. **Exception to application of limitation and penalty.** The limitation provided for in subdivision 1 does not apply to any relief association which before January 1, 1957, had established a definite service pension formula for members of the partially salaried and partially volunteer firefighters' relief association who are regularly employed firefighters.

**History:** 1979 c 201 s 13; 1983 c 219 s 7; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 2009 c 169 art 10 s 37

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. **Membership.** (a) A relief association that is directly associated with a municipal fire department must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association and three trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three municipal trustees must be one elected municipal official and one elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.

(b) A relief association that is a subsidiary of an independent nonprofit firefighting corporation must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association, two trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee must be the fire chief serving with the independent nonprofit firefighting corporation. The bylaws of a relief association may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The two municipal trustees must be elected or appointed municipal officials, selected as follows:
(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the municipal trustees must be two officials of the contracting municipality who are designated annually by the governing body of the municipality; or

(2) if two or more municipalities contract with the independent nonprofit corporation, the municipal trustees must be one official from each of the two largest municipalities in population who are designated annually by the governing bodies of the applicable municipalities.

(c) The municipal trustees for a relief association that is directly associated with a fire department operated as or by a joint powers entity must be the fire chief of the fire department and two trustees designated annually by the joint powers board. The municipal trustees for a relief association that is directly associated with a fire department service area township must be the fire chief of the fire department and two trustees designated by the township board.

(d) If a relief association lacks the municipal board members provided for in paragraph (a), (b), or (c) because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, the municipal board members must be the fire chief of the fire department and two board members appointed from the fire department service area by the board of commissioners of the applicable county.

(e) The term of the appointed municipal board members is one year or until the person's successor is qualified, whichever is later.

(f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights and duties accorded to any other trustee, except the right to be an officer of the relief association board of trustees.

(g) A board must have at least three officers, who are a president, a secretary, and a treasurer. These officers must be elected from among the elected trustees by either the full board of trustees or by the relief association membership, as specified in the bylaws. In no event may any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board must be specified in the bylaws of the relief association, but may not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership must be staggered on as equal a basis as is practicable.

Subd. 2. Fiduciary duty. The board of trustees of a relief association shall undertake their activities consistent with chapter 356A.

Subd. 2a. Fiduciary responsibility. In the discharge of their respective duties, the officers and trustees shall be held to the standard of care specified in section 11A.09. In addition, the trustees shall act in accordance with chapter 356A. Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with chapter 356A. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that the transaction constitutes one of the following direct or indirect transactions:

1. sale or exchange or leasing of any real property between the relief association and a board member;
2. lending of money or other extension of credit between the relief association and a board member or member of the relief association;
3. furnishing of goods, services, or facilities between the relief association and a board member; or
4. transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. A transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Subd. 3. Conditions on relief association consultants. (a) If a volunteer firefighter relief association employs or contracts with a consultant to provide legal or financial advice, the secretary of
the relief association shall obtain and the consultant shall provide to the secretary of the relief association a copy of the consultant's certificate of insurance.

(b) A consultant is any person who is employed under contract to provide legal or financial advice and who is or who represents to the volunteer firefighter relief association that the person is:

(1) an actuary;
(2) a certified public accountant;
(3) an attorney;
(4) an investment advisor or manager, or an investment counselor;
(5) an investment advisor or manager selection consultant;
(6) a pension benefit design advisor or consultant; or
(7) any other financial consultant.

History: 1979 c 201 s 14; 1980 c 607 art 15 s 12; 1981 c 224 s 210; 1983 c 219 s 8; 1989 c 319 art 8 s 27; 2000 c 461 art 15 s 10; 1Sp2001 c 10 art 16 s 1; 1Sp2005 c 8 art 9 s 14; 2009 c 169 art 10 s 38; 2012 c 286 art 12 s 16

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

Subdivision 1. Establishment of special fund. Every volunteer firefighters' relief association shall establish and maintain a special fund within the relief association.

Subd. 2. Special fund assets and revenues. The special fund must be credited with all fire state aid moneys received under sections 69.011 to 69.051, all taxes levied by or other revenues received from the municipality under sections 69.771 to 69.776 or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest or investment return earned upon the assets of the special fund. The treasurer of the relief association is the custodian of the assets of the special fund and must be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association are public and must be open for inspection by any member of the relief association, any officer or employee of the state or of the municipality, or any member of the public, at reasonable times and places.

Subd. 3. Authorized disbursements from special fund. 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 purchase of an annuity for the applicable person under section 424A.015, subdivision 3, for the transfer of service pension or benefit amounts to the applicable person's individual retirement account under section 424A.015, subdivision 4, or to the applicable person's account in the Minnesota deferred compensation plan under section 424A.015, subdivision 5;
(3) 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;
(4) for the payment of survivor benefits or for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized and paid under law and specified in amount in the bylaws governing the relief association;
(5) 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;

(6) 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

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

Subd. 3a. Corrections of erroneous special fund deposits. Upon notification of funds deposited in error in the special fund and after presentation of evidence that the error occurred in good faith, the state auditor may require the relief association to provide a written legal opinion concluding that the transfer of funds from the special fund is consistent with federal and state law. Taking into consideration the evidence of good faith presented and the legal opinion, if any, provided, the state auditor may order the transfer from the special fund to the appropriate fund or account an amount equal to the funds deposited in error.

Subd. 4. Investments of assets of the special fund. The assets of the special fund must be invested only in securities authorized by section 69.775.

History: 1979 c 201 s 15; 1981 c 224 s 211, 274; 1983 c 219 s 9; 2000 c 461 art 15 s 11; 2006 c 271 art 13 s 4; 2008 c 349 art 14 s 11; 2009 c 169 art 10 s 39-42; 2010 c 359 art 13 s 11,12

424A.06 RELIEF ASSOCIATION GENERAL FUND.

Subdivision 1. Establishment of general fund. A volunteer firefighters' relief association may establish and maintain a general fund within the relief association.

Subd. 2. General fund assets and revenues. (a) The general fund, if established, must be credited with the following:

(1) all money received from dues other than dues payable as contributions under the bylaws of the relief association to the special fund;
(2) all money received from fines;
(3) all money received from initiation fees;
(4) all money received as entertainment revenues; and
(5) any money or property donated, given, granted or devised by any person, either for the support of the general fund of the relief association or for unspecified purposes.

(b) The treasurer of the relief association is the custodian of the assets of the general fund and must be the recipient on behalf of the general fund of all revenues payable to the general fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the general fund. These records must be open for inspection by any member of the relief association at reasonable times and places.

Subd. 3. Authorized disbursements from the general fund. Disbursements from the general fund may be made for any purpose that is authorized by either the articles of incorporation or bylaws of the relief association.
Subd. 4. **Investment of assets of the general fund.** The assets of the general fund may be invested in any securities that are authorized by the bylaws of the relief association and may be certified for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

**History:** 1979 c 201 s 16; 1980 c 509 s 163; 1993 c 300 s 13; 2009 c 169 art 10 s 43; 2012 c 286 art 12 s 17

### 424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT OF RELIEF ASSOCIATIONS.

Before paying any service pensions or retirement benefits under section 424A.02 or before becoming entitled to receive any amounts of fire state aid upon transmittal from a contracting municipality under section 69.031, subdivision 5, a nonprofit firefighting corporation shall establish a volunteer firefighters' relief association governed by this chapter.

**History:** 1979 c 201 s 17; 1981 c 224 s 274; 2009 c 169 art 10 s 44

### 424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account may not be made for any purpose except:

1. payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its firefighters to membership in and the benefits of these state associations;
2. payment of the cost of purchasing and maintaining needed equipment for the fire department; and
3. payment of the cost of construction, acquisition, repair, or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A qualified municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department, which does not participate in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

(c) A municipality that has no volunteer firefighters' relief association directly associated with it and that participates in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G shall transmit any fire state aid that it receives to the voluntary statewide lump-sum volunteer firefighter retirement fund.
**424A.09** [Repealed, 2009 c 169 art 10 s 58]

**424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.**

Subdivision 1. **Definitions.** For purposes of this section: (1) "qualified recipient" means an individual who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters' relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the surviving spouse of a deceased active or deferred volunteer firefighter under section 424A.001, subdivision 6, or, if none, the surviving child or children of a deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a municipal fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, has sufficient service credit from the applicable relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension.

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer firefighters' relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. This benefit is an amount equal to ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed $1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association if its articles of incorporation or bylaws so provide and the retirement plan may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit, but not to exceed $2,000.

(c) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.
Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters' relief association or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided by this section is in lieu of the state income tax exclusion for lump-sum distributions of retirement benefits paid to volunteer firefighters.

(b) If the law is modified to exclude or exempt volunteer firefighters' lump-sum distributions from state income taxation, the supplemental benefits under this section are no longer payable, beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump-sum distribution under section 290.032 or 290.0802.

Subd. 5. **Retroactive reimbursement in certain instances.** A supplemental survivor benefit may be paid by a relief association for the death of an active volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August 1, 2005, if the relief association articles of incorporation or bylaws provide for a supplemental survivor benefit and provide for retroactivity.

**History:** 1988 c 719 art 19 s 22; 1989 c 319 art 10 s 7; 1993 c 307 art 9 s 1; 2006 c 271 art 13 s 5; 2007 c 134 art 10 s 1-3; 2008 c 154 art 15 s 9; 2009 c 169 art 9 s 29-31; art 10 s 46-50
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Minnesota Statutes
Chapter 424B
Volunteer Firefighters, Consolidation, Dissolution
(§§ 424B.01 - .21)
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424B.01 DEFINITIONS.

Subdivision 1. Generally. Unless the context of the provision indicates that a different meaning is intended, each of the terms in the following subdivisions has the meaning indicated.

Subd. 2. Applicable municipality. "Applicable municipality" means the municipality or municipalities in which a consolidating relief association is located and to which a consolidating relief association is associated by virtue of the presence of at least one municipal official on the relief association board of trustees under section 424A.04.

Subd. 3. Consolidating relief association. "Consolidating relief association" means a volunteer firefighters relief association organized under chapter 317A and governed by chapter 424A that has initiated or has completed the process of consolidating with one or more other relief associations under this chapter.

Subd. 4. Prior relief associations. "Prior relief associations" means the two or more volunteer firefighters relief associations that have initiated the consolidation process under this chapter by action of the board of trustees of the relief association.

Subd. 5. Relief association membership. "Relief association membership" means all active members of the volunteer firefighters relief association, all deferred retirees and other vested inactive members of the volunteer firefighters relief association, and any persons regularly receiving a service pension or other retirement benefit from the volunteer firefighters relief association.

Subd. 6. Subsequent relief association. "Subsequent relief association" means the volunteer firefighters relief association that is designated to be the successor relief association in the consolidation initiative resolutions of the board of trustees of the prior relief associations or the volunteer firefighters relief association organized under chapters 317A and 424A for the purpose of operating as the successor relief association after consolidation under this chapter.

History: 2000 c 461 art 16 s 1

424B.02 CONSOLIDATION AUTHORIZED.

Subdivision 1. Initiation. (a) With the approval of the governing body of each applicable municipality, two or more relief associations associated with fire departments serving contiguous fire districts may initiate the consolidation of the relief associations into a subsequent relief association.

(b) Initiation of a consolidation action must occur through the proposal of a consolidation resolution to the board of trustees of each volunteer firefighters relief association notification of the relief association membership of the potential consolidation and after conducting a public meeting on the consolidation question.

Subd. 2. Initiative processing; filing. (a) After a consolidation initiative resolution has been filed with the relief association board of trustees by one or more members of the board, the relief association secretary shall provide written notification of the initiative to the relief association membership. After notification of the relief association membership, the board of trustees must hold a public hearing on the initiative. After the hearing, the board of trustees shall act on the consolidation resolution.
(b) If the consolidation resolution is adopted by majority vote of the board of trustees, the secretary shall file a copy of the resolution with the other relief association or associations also considering consolidation.

(c) If two or more volunteer firefighters relief associations adopt a consolidation resolution, those relief associations are consolidated effective the next following January 1.

(d) Within 30 days of the adoption of the consolidation resolution by all prior relief associations, the secretaries of the applicable prior relief associations shall jointly notify in writing the state auditor, the commissioner of revenue, and the secretary of state of the consolidation.

History: 2000 c 461 art 16 s 2

424B.03 SUBSEQUENT RELIEF ASSOCIATION.

Subdivision 1. New relief association. If the subsequent relief association is a new volunteer firefighters relief association, the consolidated volunteer firefighters relief association must be incorporated under chapter 317A. The incorporators of the consolidated relief association must include at least one board member of each of the former volunteer firefighters relief associations.

Subd. 2. Successor relief association. If the subsequent relief association is one of the prior relief associations, the articles of incorporation and bylaws must be appropriately revised, effective on the consolidation effective date, and a revised board of trustees must be elected before the consolidation effective date.

History: 2000 c 461 art 16 s 3

424B.04 GOVERNANCE OF CONSOLIDATED VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION.

Subdivision 1. Board of trustees. The consolidated volunteer firefighters relief association is governed by a board of trustees as provided in section 424A.04, subdivision 1.

Subd. 2. Composition of board. The board must have three officers, including a president, a secretary, and a treasurer. The membership of the consolidated volunteer firefighters relief association must elect the three officers from the board members. A board of trustees member may not hold more than one officer position at the same time.

Subd. 3. Board administration. The board of trustees must administer the affairs of the relief association consistent with this chapter and the applicable provisions of chapters 69, 356A, and 424A.

History: 2000 c 461 art 16 s 4
424B.05 SPECIAL AND GENERAL FUNDS.

The consolidated volunteer firefighters relief association must establish and maintain a special fund and a general fund. The special fund must be established and maintained as provided in section 424A.05. The general fund must be established and maintained as provided in section 424A.06.

History: 2000 c 461 art 16 s 5

424B.06 TRANSFERS.

Subdivision 1. Generally. On the effective date of consolidation, the records, assets, and liabilities of the prior volunteer firefighters relief associations are transferred to the consolidated volunteer firefighters relief association. On the effective date of consolidation, the prior volunteer firefighters relief associations cease to exist as legal entities, except for the purposes of winding up association affairs as provided by this chapter.

Subd. 2. Transfer of administration. On the effective date of consolidation, the administration of the prior relief associations is transferred to the board of trustees of the subsequent volunteer firefighters relief association.

Subd. 3. Transfer of records. On the effective date of consolidation, the secretary and the treasurer of the prior volunteer firefighters relief associations shall transfer all records and documents relating to the prior relief associations to the secretary and treasurer of the subsequent volunteer firefighters relief association.

Subd. 4. Transfer of special fund assets and liabilities. (a) On the effective date of consolidation, the secretary and the treasurer of a prior volunteer firefighters relief association shall transfer the assets of the special fund of the applicable relief association to the special fund of the subsequent relief association. Unless the appropriate secretary and treasurer decide otherwise, the assets may be transferred as investment securities rather than cash. The transfer must include any accounts receivable. The appropriate secretary must settle any accounts payable from the special fund of the relief association before the effective date of consolidation.

(b) Upon the transfer of the assets of the special fund of a prior relief association, the pension liabilities of that special fund become the obligation of the special fund of the subsequent volunteer firefighters relief association.

(c) Upon the transfer of the prior relief association special fund assets, the board of trustees of the subsequent volunteer firefighters relief association has legal title to and management responsibility for the transferred assets as trustees for persons having a beneficial interest in those assets arising out of the benefit coverage provided by the prior relief association.

(d) The subsequent volunteer firefighters relief association is the successor in interest in all claims for and against the special funds of the prior volunteer firefighters relief associations or the applicable municipalities with respect to the special funds of the prior relief associations. The status of successor in interest does not apply to any claim against a prior relief association, the municipality in which that relief association is located, or any person connected with the prior relief association or the municipality, based on any act or acts that were not done in good faith and that constituted a breach of fiduciary responsibility under common law or chapter 356A.
424B.07 DISSOLUTION OF PRIOR GENERAL FUND BALANCES.

Before the effective date of consolidation, the secretaries of the volunteer firefighters relief associations shall settle any accounts payable from the respective general fund or any other relief association fund in addition to the relief association special fund. Investments held by a fund of the prior relief associations in addition to the special fund must be liquidated before the effective date of consolidation as the bylaws of the relief association provide. Before the effective date of consolidation, the respective relief associations must pay all applicable general fund expenses from their respective general funds. Any balance remaining in the general fund or in a fund other than the relief association special fund as of the effective date of consolidation must be paid to the new general fund of the subsequent volunteer firefighters relief association.

History: 2000 c 461 art 16 s 7

424B.08 TERMINATION OF PRIOR RELIEF ASSOCIATIONS.

Following the transfer of administration, records, special fund assets, and special fund liabilities from the prior relief associations to the subsequent volunteer firefighters relief association, the prior volunteer firefighters relief associations cease to exist as legal entities for any purpose. The subsequent relief association secretary shall notify the following governmental officials of the termination of the respective volunteer firefighters relief associations and of the establishment of the subsequent volunteer firefighters relief association:

1. Minnesota secretary of state;
2. Minnesota state auditor;
3. Minnesota commissioner of revenue; and
4. Commissioner of the federal Internal Revenue Service.

History: 2000 c 461 art 16 s 8

424B.09 ADMINISTRATIVE EXPENSES.

The payment of authorized administrative expenses of the subsequent volunteer firefighters relief association must be from the special fund of the subsequent volunteer firefighters relief association in accordance with section 69.80, and as provided for in the bylaws of the subsequent volunteer firefighters relief association and approved by the board of trustees of the subsequent volunteer firefighters relief association. The payment of any other expenses of the subsequent volunteer firefighters relief association must be from the general fund of the subsequent volunteer firefighters relief association in accordance with section 69.80 and as provided for in the bylaws of the subsequent volunteer firefighters relief association and approved by the board of trustees of the subsequent volunteer firefighters relief association.
424B.10 CONSOLIDATION; BENEFITS; FUNDING.

Subdivision 1. [Repealed, 2009 c 169 art 10 s 58]

Subd. 1a. Applicability. This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b.

Subd. 1b. Benefits. (a) The successor relief association following the consolidation of two or more defined benefit relief associations must be a defined benefit relief association.

(b) Notwithstanding any provision of section 424A.02, subdivision 3, to the contrary, the initial service pension amount of the subsequent defined benefit relief association as of the effective date of consolidation is either the service pension amount specified in clause (1) or the service pension amounts specified in clause (2), as provided for in the consolidated relief association's articles of incorporation or bylaws:

(1) the highest dollar amount service pension amount of any prior volunteer firefighters relief association in effect immediately before the consolidation initiation if the pension amount was implemented consistent with section 424A.02; or

(2) for service rendered by each individual volunteer firefighter before consolidation, the service pension amount under the consolidating volunteer firefighters relief association that the firefighter belonged to immediately before the consolidation if the pension amount was implemented consistent with section 424A.02 and for service rendered after the effective date of the consolidation, the highest dollar amount service pension of any of the consolidating volunteer firefighters relief associations in effect immediately before the consolidation if the pension amount was implemented consistent with section 424A.02.

(c) Any increase in the service pension amount beyond the amount implemented under paragraph (a) must conform with the requirements and limitations of sections 69.771 to 69.775 and section 424A.02.

Subd. 2. Funding. (a) Unless the applicable municipalities agree in writing to allocate the minimum municipal obligation in a different manner, the minimum municipal obligation under section 69.772 or 69.773, whichever applies, must be allocated between the applicable municipalities in proportion to their fire state aid.

(b) If any applicable municipality fails to meet its portion of the minimum municipal obligation to the subsequent relief association, all other applicable municipalities are jointly obligated to provide the required funding upon certification by the relief association secretary. An applicable municipality that pays the minimum municipal obligation amount for another applicable municipality, the municipality may collect that payment amount, plus a 25 percent surcharge, from the responsible applicable municipality by any available means, including a deduction from any state aid or payment amount payable to the responsible municipality upon certification of the necessary information to the commissioner of management and budget.

History: 2000 c 461 art 16 s 10; 1Sp2005 c 8 art 9 s 15; 2009 c 101 art 2 s 109; 2009 c 169 art 10 s 51-53
424B.11 CONSOLIDATING DEFINED CONTRIBUTION RELIEF ASSOCIATIONS; INDIVIDUAL ACCOUNTS; FUNDING.

Subdivision 1. **Applicability.** This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Individual accounts.** The successor relief association following the consolidation of two or more defined contribution relief associations must be a defined contribution relief association and the successor relief association board shall establish individual accounts for every active member, inactive member, deferred member, or retired member receiving installment payments with that status as of the consolidation date. To each individual account the successor relief association must credit the amount to the credit of each person by a predecessor relief association as of the date of consolidation plus a proportional share, based on account value, of any subsequent net revenue during the consolidation process.

Subd. 3. **Funding.** Unless the articles of incorporation or bylaws of the successor relief association specify that municipal contributions are wholly voluntary or unless the municipalities associated with the consolidating defined contribution relief associations agree in writing to a different municipal support arrangement, each municipality must continue to provide the same amount of municipal support to the successor relief association as the municipality provided to the applicable predecessor relief association in the calendar year immediately prior to the calendar year in which the consolidation occurs.

**History:** 2009 c 169 art 10 s 54

424B.12 MIXED CONSOLIDATING RELIEF ASSOCIATIONS; BENEFIT PLAN; FUNDING.

Subdivision 1. **Applicability.** This section applies where one or more of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b, and one or more of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Benefit plan.** The articles of incorporation or bylaws of the successor relief association must specify whether the relief association is a defined benefit relief association or whether the relief association is a defined contribution relief association. If the successor relief association is a defined benefit relief association, the relief association benefits must comply with sections 424A.02 and 424B.11, subdivision 1a. If the successor relief association is a defined contribution relief association, the relief association must comply with sections 424A.016 and 424B.12, subdivision 2.

Subd. 3. **Funding.** If the successor relief association is a defined benefit relief association, the relief association funding is governed by section 424B.11, subdivision 2. If the successor relief association is a defined contribution relief association, the relief association funding is governed by section 424B.12, subdivision 3.
424B.20 DISSOLUTION WITHOUT CONSOLIDATION.

Subdivision 1. Applicable dissolutions. This section applies if the fire department associated with a volunteer firefighters relief association is dissolved or eliminated by action of the governing body of the municipality in which the fire department was located or by the independent nonprofit firefighting corporation, whichever applies, and no consolidation with another volunteer firefighters relief association under sections 424B.01 to 424B.10 is sought, or if a volunteer firefighters relief association is dissolved or eliminated with municipal approval, but the fire department associated with the volunteer firefighters relief association is not dissolved or eliminated, and no consolidation with another volunteer firefighters relief association under sections 424B.01 to 424B.10 is applicable.

Subd. 2. Procedures. As part of the dissolution process, all legal obligations of the relief association other than service pensions and benefits must be settled under subdivision 3, a benefit trust must be established under subdivision 4, and the affairs of the relief association must be concluded under subdivision 5.

Subd. 3. Settlement of nonbenefit legal obligations. (a) Prior to the effective date of the dissolution of the volunteer firefighters relief association established by the relief association board of trustees, the board shall determine the following:

(1) the fair market value of the assets of the special fund;
(2) the total amount of the accounts payable and other legal obligations of the special fund, excluding the accrued liability of the special fund for service pensions and other benefits; and
(3) the accrued liability of the special fund for service pensions and other benefits payable or accrued under the applicable bylaws of the relief association and chapter 424A.

(b) On or before the effective date of the dissolution of the volunteer firefighters relief association, the board shall liquidate sufficient special fund assets to pay the legal obligations of the special fund and must settle those legal obligations.

(c) On or before the effective date of the dissolution of the volunteer firefighters relief association, the board shall settle the legal obligations of the general fund of the relief association.

Subd. 4. Benefit trust fund establishment. (a) After the settlement of nonbenefit legal obligations of the special fund of the volunteer firefighters relief association under subdivision 3, the board of the relief association shall transfer the remaining assets of the special fund, as securities or in cash, as applicable, to the chief financial official of the municipality in which the associated fire department was located if the fire department was a municipal fire department or to the chief financial official of the municipality with the largest population served by the fire department if the fire department was an independent nonprofit firefighting corporation. The board shall also compile a schedule of the relief association members to whom a service pension is or will be owed, any beneficiary to whom a benefit is owed, the amount of the service pension or benefit payable based on the applicable bylaws and state law and the service rendered to the date of the dissolution, and the date on which the pension or benefit would first be payable under the bylaws of the relief association and state law.

(b) The municipality in which is located a volunteer firefighters relief association that is dissolving under this section shall establish a separate account in the municipal treasury which must function as a trust fund for members of the volunteer firefighters relief association and their beneficiaries to whom the
volunteer firefighters relief association owes a service pension or other benefit under the bylaws of the relief association and state law. Upon proper application, on or after the initial date on which the service pension or benefit is payable, the municipal treasurer shall pay the pension or benefit due, based on the schedule prepared under paragraph (a) and the other records of the dissolved relief association. The trust fund under this section must be invested and managed consistent with section 69.775 and chapter 356A. Upon payment of the last service pension or benefit due and owing, any remaining assets in the trust fund cancel to the general fund of the municipality. If the special fund of the volunteer firefighters relief association had an unfunded actuarial accrued liability upon dissolution, the municipality is liable for that unfunded actuarial accrued liability.

Subd. 5. Relief association affairs wind-up. Upon dissolution, the board of trustees of the volunteer firefighters relief association shall transfer the records of the relief association to the chief administrative officer of the applicable municipality. The board shall also notify the commissioner of revenue, the state auditor, and the secretary of state of the dissolution within 30 days of the effective date of the dissolution.

History: 2000 c 461 art 16 s 11

424B.21 ANNUITY PURCHASES UPON DISSOLUTION.

The board of trustees of a volunteer firefighters relief association that is scheduled for dissolution may purchase annuity contracts under section 424A.015, subdivision 3, instead of transferring special fund assets to a municipal trust fund under section 424B.20, subdivision 4. Payment of an annuity for which a contract is purchased may not commence before the retirement age specified in the relief association bylaws and in compliance with section 424A.016, subdivision 2, or 424A.02, subdivision 1. Legal title to the annuity contract transfers to the municipal trust fund under section 424B.20, subdivision 4.

History: 2000 c 461 art 16 s 12; 2009 c 169 art 10 s 56