

# Work Group on Relief Association Conversions and Dissolutions

## Fourth Meeting

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OCTOBER 29, 2018  
MINNESOTA SENATE BUILDING  
CONFERENCE ROOM 2308



# Reminder: Work Group Objectives

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- I. Study the statutes regarding conversion from defined benefit to defined contribution **and propose legislation alternatives.\***
- II. Study the statutes regarding disposition of surplus assets upon plan termination/relief association dissolution **and propose legislation alternatives.\***
- III. Study the prevalence of overfunded relief associations and survey fire departments regarding transitioning from volunteer to full-time.
- IV. Consider related issues and propose legislation alternatives.

**\* For consideration at today's meeting.**

# **Background information**

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**What are the requirements for firefighter defined contribution plans under Minnesota law?**

# Section 424A.001: Definition of defined contribution plan

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**Subd. 1c.** "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.

# **Section 424A.016: “Defined Contribution Volunteer Firefighters Relief Association Specific Regulation”**

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Subd. 1 authorizes defined contribution plans.

Subd. 2 authorizes distributions from a plan if the member:

- Separates from active service;
- Reaches age 50;
- Completes at least 5 years of active membership with the relief association; and
- Complies with any additional requirements (age, service, membership) in the bylaws.

# Summary of section 424A.016 (cont.)

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Subd. 3 authorizes relief associations to use a vesting schedule that is shorter than for a defined benefit plan:

Years of service	Vested percentage
<5	0
5	40
6	52
7	64
8	76
9	88
10+	100

# Summary of section 424A.016 (cont.)

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Subd. 4 requires that:

- An account must be established for each member.
- Each account must be credited an equal share of:
  1. Fire state aid;
  2. Supplemental state aid, if any;
  3. Municipal contributions, if any;
  4. Forfeitures (unvested portion of the accounts of former firefighters); and
  5. Investment earnings.
- Each account may be reduced by a share of administrative expenses, as specified in the bylaws.
- Paragraph (f) requires an annual certification by the secretary of the relief association to the State Auditor of the amount allocated to each account.

# Summary of section 424A.016 (cont.)

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Subdivisions 5 and 6 addresses distributions:

- In lump sum or installments, if permitted by the bylaws.
- May be made to members who separate from active service, if the member is vested at least partially, at age 50 or any later age provided in the bylaws.
- May credit accounts of former firefighters with interest or investment earnings, for each year of deferral, if so provided in the bylaws.



# Summary of section 424A.016 (cont.)

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Subd. 7 addresses ancillary benefits:

- Permits bylaws to provide for ancillary benefits, for disability, and upon death, to survivors or the member's estate.
- Specific requirements regarding amount and who must be paid the benefit.

Subd. 8 requires filing bylaws and amendments with the State Auditor.

# **More background information**

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**Impact of the  
2018 Omnibus Pension and Retirement Act on the  
Maplewood and Plymouth firefighter relief associations**

# Maplewood (text of the law)

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## Sec. 30. MAPLEWOOD FIREFIGHTERS RELIEF ASSOCIATION; TERMINATION AND DISSOLUTION.

(a) Notwithstanding any provision of Minnesota Statutes, chapters 424A, 424B, or any other law to the contrary, the Maplewood Firefighters Relief Association will be dissolved and its pension plan terminated in accordance with the provisions of this section following the payment by the relief association of all benefit obligations to all members and deferred members, the discharge of any other legal obligations, and the distribution of all remaining assets of the relief association.

(b) Each member of the Maplewood Firefighters Relief Association who was employed as a volunteer firefighter by the Maplewood Fire Department on February 27, 2018, shall become 100 percent vested in the member's retirement benefit determined by taking into account each full year of service and fractional year of service, as defined in the bylaws of the relief association, until the member's separation from service as a volunteer firefighter. The member will be considered a retired member of the relief association.

(c) Each of the members specified in paragraph (b) is entitled to a lump sum benefit in an amount equal to \$11,000 multiplied by the number of full and fractional years of service earned by the member.

(d) Prior to the distribution of benefits under this section, the Maplewood Firefighters Relief Association shall amend its bylaws to reestablish a defined benefit lump sum service pension plan that provides the benefits described in this section and shall rescind any bylaws inconsistent with this section. The relief association may amend its bylaws to incorporate any provisions necessary to satisfy tax qualification requirements under the Internal Revenue Code and make any other changes necessary to permit members to elect a direct rollover of their benefit into a retirement account. Any bylaws amendment shall be approved by a majority of the members of the relief association in attendance at a meeting of the membership held to consider the bylaws amendment.

# Maplewood (text of the law, continued)

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(e) Prior to dissolution, the Maplewood Firefighters Relief Association shall:

- 1) distribute the retirement benefits of all members and deferred members in the form of a lump sum payment or direct rollover, regardless of the age of the member or deferred member, and otherwise in accordance with this section and the bylaws of the relief association discharge all pension benefit obligations;
- 2) to the extent authorized under Minnesota Statutes, section 424A.05, subdivision 3, discharge any other legal obligation the relief association owes to any other party; and
- 3) pay a supplemental lump sum benefit to each member and survivor who satisfies the requirements of Minnesota Statutes, section 424A.10, subdivision 2, except that, notwithstanding any requirements in Minnesota Statutes, section 424A.10, subdivision 2, to the contrary, the benefit shall be paid to a member only if the member had attained at least age 50 as of the date the member received a distribution of the member's retirement benefit under clause (1).

(f) The city of Maplewood shall file for and receive reimbursement pursuant to Minnesota Statutes, section 424A.10, subdivision 3, of supplemental benefits paid to any member who had attained at least age 50 as of the date the member received a distribution of the member's retirement benefit under paragraph (e) and to any survivor and deposit the reimbursement in the city's general fund.

# Maplewood (text of the law, continued)

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(g) Upon completion of paragraphs (b) through (e), the Maplewood Firefighters Relief Association shall be dissolved and its affairs wound up in accordance with Minnesota Statutes, section 424B.20, subdivision 5.

(h) Upon dissolution of the Maplewood Firefighters Relief Association:

- 1) the remaining balance in the relief association special fund shall be transferred to the city of Maplewood general fund and none of the relief association special fund may be transferred to the relief association general fund;
- 2) the remaining balance in the relief association general fund shall be distributed in equal shares to all members; and
- 3) if the relief association files the financial report and audit required under Minnesota Statutes, section 69.051, subdivision 1, and the state auditor files the certification regarding the relief association with the commissioner of revenue pursuant to Minnesota Statutes, section 6.495, subdivision 3, the Department of Revenue shall pay the fire state aid under Minnesota Statutes, chapter 69, for calendar year 2017 to the city of Maplewood.

EFFECTIVE DATE; LOCAL APPROVAL. The provisions of this section shall take effect only if approved within 45 days of the enactment of this section by:

- 1) the board of trustees of the Maplewood Firefighters Relief Association;
- 2) a majority of the members of the relief association in attendance at a meeting of the membership to consider this section; and
- 3) the Maplewood city council.

# Maplewood summary

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The relief association is to be dissolved and the pension plan terminated, following the process in the session law:

- The relief association must rescind bylaws provisions that changed the pension plan to a defined contribution plan and revert back to a defined benefit plan.
- Each member employed on February 27, 2018:
  - becomes 100% vested in his lump sum pension amount; and
  - becomes entitled to a lump sum pension equal to \$11,000 times years of service (up from \$10,000).

# Maplewood summary (continued)

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- The relief association must immediately distribute or rollover:
  - a lump sum pension benefit to every active and deferred member, regardless of age, and any survivor; and
  - a supplemental benefit (\$1,000) to each member who is at least age 50; and
  - a supplemental benefit (\$2,000) to each survivor.
- City receives reimbursement from the State for the supplemental benefits.

# Maplewood summary (continued)

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- Any remaining assets in the pension plan must be paid to the City.
- If required audit and filings done, fire state aid for 2017+ must be paid to the City.
- All of the above will occur only if approved within 45 days by:
  - the board of trustees of the relief association;
  - a majority of the relief association members at a meeting; and
  - the Maplewood city council.



# Plymouth and others (text of the law)

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Sec. 25. Minnesota Statutes 2016, section 424B.20, is amended by adding a subdivision to read:

Subd. 4a. Disposition of surplus assets upon dissolution of certain volunteer firefighters relief associations. Notwithstanding any provision to the contrary in subdivision 4, if a volunteer firefighters relief association provides a lump-sum service pension equal to \$9,500 or more for each year of service as of the effective date of this section, upon dissolution under this section and payment of the last service pension or benefit due and owing, any remaining assets in the trust fund cancel as follows:

- 1) if the municipality was required to make contributions to the relief association under chapter 424A at any time during the ten years preceding the effective date of this section, the remaining assets cancel to the general fund of the municipality; or
- 2) if the municipality was not required to make contributions to the relief association under chapter 424A at any time during the ten years preceding the effective date of this section, the remaining assets cancel to the general fund of the state.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to dissolutions initiated retroactive to May 8, 2018.

# Plymouth and others (text of the law, continued)

Sec. 29. CERTAIN VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION SERVICE PENSIONS.

(a) As used in this section, "qualifying volunteer firefighters relief association" means a volunteer firefighters relief association with a funding ratio of greater than 100 percent as of the most recent fiscal year end, and which provides a lump sum pension benefit based on a lump sum pension amount equal to \$9,500 or more, as of the effective date of this section. For purposes of this section, "qualifying volunteer firefighters relief association" does not include an association whose maximum lump-sum pension amount is specifically established by other provisions of this bill.

(b) Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 3, paragraph (d), to the contrary, the maximum lump-sum pension amount for each year of service credited that may be provided for in the bylaws of a qualifying volunteer firefighters relief association is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

Minimum Average Amount of Available Financing per Firefighter	Maximum Lump-Sum Service Pension Amount Payable for Each Year of Service
\$ ...	\$10
11	20
...	...
5451	10,100
5505	10,200
...	...
6693	12,400
6747	12,500
any amount in excess of 6747	12,500

EFFECTIVE DATE. This section is effective the day following final enactment.

# Plymouth (and others) summary

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Relief associations that paid a lump sum benefit of \$9,500 or more per year of service as of May 8, 2018:

1. Surplus must be transferred to the municipality if the municipality made any required contributions during the 10-year period from May 8, 2008, through May 8, 2018.
2. If (1) doesn't apply, surplus must be transferred to the general fund of the state.
3. The relief association may increase the lump sum amount per year of service to \$12,500 (as long as it otherwise satisfies the requirements for an increase).

# Objective I

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Propose legislation alternatives regarding conversion from a defined benefit plan to a defined contribution plan

# Current law regarding conversion

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Nothing currently in statutes regarding how to do a conversion from one plan type to another.

Current law does require identification of which type of plan (defined benefit or defined contribution):

- Articles or bylaws must state whether the relief association is a defined benefit plan or a defined contribution plan. (Section 424A.002)

# Proposal: Amend Chapter 424A to add a conversion process

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## Step 1

### Board of trustees resolutions:

1. Approving the conversion from defined benefit to defined contribution;
2. Approving the conversion effective date (“CED”);
3. Adopting a new defined contribution plan document, which specifies eligibility, annual allocations to accounts, vesting, distributions, ancillary benefits, and otherwise complies with Section 424A.016;

# Amend Chapter 424A to add a conversion process (continued)

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## Board of trustees resolutions:

4. Approving full (100%) vesting of all firefighters (actives and deferred) in their accrued benefit as of the CED, to the extent of the plan's assets (as required by federal law);
5. If plan assets are likely to exceed benefit liabilities on the CED:
  - The board **may** approve an increase in the lump sum amount to reduce the surplus. (Lump sum amount need not comply with the \$10,000 statutory cap.)
  - The board must approve a procedure for allocating the “surplus” (options covered in slides 27-31).

# Amend Chapter 424A to add a conversion process (continued)

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## Step 2

The board of trustees determines the value of each firefighter's fully vested accrued benefit as of the CED.

Method for determining value may be either:

- (a) the method at Section 424A.092, subd. 2 (using the table which determines the accrued liability of each member's benefit for purposes of determining the plan's funded status); OR
- (b) as determined by an actuary retained by the relief association (actuary must meet the definition of "approved actuary" at Section 356.215, subd. 1(c)).



# Amend Chapter 424A to add a conversion process (continued)

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## Step 3

Board of trustees provides notice to firefighters (actives and deferred):

- At least [30?] days in advance of the conversion effective date (“CED”)
- Contents of the notice:
  1. inform that the lump sum amount has been increased (if approved by the board);
  2. explain that the plan is to be converted, the reasons for it, the conversion effective date, and the procedure to be followed, including fully vesting all members and the method for allocating any surplus;
  3. the value of the firefighter’s accrued benefit (fully vested) and the method used to calculate that value;
  4. contact information (phone and email) for one or more members of the board who will answer questions and provide a copy of the new DC plan document or a summary, if requested (or directions to a website for viewing and printing the plan document or summary);
  5. anything else?

# Amend Chapter 424A to add a conversion process (continued)

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## Step 4

Other notice or filing required? To Municipality? To State Auditor?

## Step 5

Take action to implement the conversion: Account established for each firefighter to which is recorded the value of the firefighter's fully vested accrued benefit as determined as of the CED.

### Example:

A relief association defined benefit plan provides for a pension benefit equal to \$5,000 per year of service. A firefighter with 11 years of service is 64% vested in a pension benefit of \$55,000 (vested value = \$35,200). On the CED, the firefighter's benefit becomes 100% vested and the entire \$55,000 will be credited to a new account in the firefighter's name.

# Amend Chapter 424A to add a conversion process (continued)

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## Step 6

Deal with the surplus: the board allocates the surplus as approved in the conversion resolutions.

Options for allocating the surplus:

- I. **Per capita method:** Each active firefighter's account receives the same dollar amount.

OR

# Amend Chapter 424A to add a conversion process (continued)

Options for allocating surplus:

II. **Service-based method:** Each active firefighter's account receives a share of the surplus based on this ratio:

$$\frac{\text{Firefighter's years of service}}{\text{Total years of service for all active firefighters}}$$

**OR**

# Amend Chapter 424A to add a conversion process (continued)

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Options for allocating surplus:

## IIIA. Firefighter/municipality-sharing 2-step method:

**First step:** Municipality receives a share of the surplus based on this ratio:

Municipal contributions since [year]

Total of fire state aid + municipal contributions since [same year]

**Second step:** Remaining surplus is allocated to accounts of active firefighters using the per capita, service-based, or another method.

**OR**

# Amend Chapter 424A to add a conversion process (continued)

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Options for allocating surplus:

## IIIB. Firefighter/municipality-sharing 2-step method:

**First step:** Municipality receives a share of the surplus based on the ratio in IIIA, but with directions on its use. Examples:

- It must be contributed back to the plan over the next five years, for allocation to the accounts of future firefighters, or
- It must be used to buy specific firefighting equipment, etc.

**Second step:** Remaining surplus is allocated to accounts of active firefighters using the per capita, service-based, or another method.

**OR**

# Amend Chapter 424A to add a conversion process (continued)

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Options for allocating surplus:

IV. **Other:** Any other method approved by the board of trustees that does not discriminate in favor of the board of trustees.

# Amend Chapter 424A to add a conversion process (continued)

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## Step 7

Optional IRS filings? (See hand-out “Applicable Federal Law”)

- Relief association files the plan document of the terminated defined benefit plan with the IRS for a determination letter?
- Relief association files the plan document of the new defined contribution plan with the IRS for a determination letter?

Anything else?



# Objective II

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Propose legislation alternatives regarding disposition of surplus assets upon plan termination or relief association dissolution

# A little more background information

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## Relief Association ≠ Retirement Plan

The relief association sponsors the retirement plan and they are separate legal entities:

- The relief association is a nonprofit corporation.
- The retirement plan is a qualified retirement plan.

Both are subject to state and federal law, but the laws governing relief associations are different than the laws governing retirement plans.

Chapters 424A and 424B could be amended to better distinguish one from the other.

# Current statutes

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1. Section 424B.20 and .21 address plan termination and dissolution of the relief association, but important issues not addressed.

# Minnesota law on “Dissolution without Consolidation” (Section 424B.20)

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This statute applies in two situations:

- When the fire department dissolves or is eliminated by the municipality or firefighting corporation.

Example: A municipality decides to contract with another municipality to provide firefighting services and eliminates its fire department. Without active firefighters, the relief association may decide to terminate the pension plan and dissolve the relief association.

- When the relief association is dissolved or eliminated with municipal approval, but the fire department is not dissolved or eliminated.

# **“Dissolution without Consolidation”**

## **(Section 424B.20)**

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Statute does not address:

- Fire department is dissolved but the relief association does not want to dissolve or terminate its pension plan;
- Termination of the pension plan where fire department is ongoing and relief association is ongoing (would this ever happen?);
- Dissolution of the relief association and its pension plan without municipal approval;
- Fire department, relief association, and pension plan are ongoing, but the municipality has terminated the services of all non-career firefighters and wants the relief association to dissolve and the pension plan to be terminated. (Example: Maplewood)

# **Dissolution Procedures**

## **(Section 424B.20, subdivisions 2-5)**

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Current law requires the relief association board to:

1. calculate assets, accounts payable, pension benefit liabilities;
2. liquidate enough special fund assets to pay “legal obligations;”
3. prepare a schedule of firefighters with each firefighter’s pension amount, service, and pension payment date;

# Dissolution Procedures

## (Section 424B.20, subd. 2-5)

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4. Transfer remaining assets to the municipality for deposit into a trust that is invested in compliance with 424A.095 (same statute that governs investment of the special fund)

**OR**

Purchase annuity contracts that will pay out pension benefits at retirement age (section 424B.21)\*;

\* (Consider legislation to revise the last sentence of 424B.21, which requires title to annuity contracts to be transferred to the trust. This seems to be a drafting error, since a trust is not necessary when annuity contracts are purchased. Title to annuity contracts should instead be required to be transferred to the municipality.)

# Dissolution Procedures

## (Section 424B.20, subd. 2-5)

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5. Transfer the records of the relief association to the municipality; and
6. Notify the Commissioner of Revenue, State Auditor, and Secretary of State within 30 days of the dissolution.



# Transfer of Surplus to Municipality

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After the municipality pays out all pension benefits according to the schedule, “any remaining assets in the trust fund cancel to the general fund of the municipality.” (424B.20, subd. 4(b))

# Proposed legislation alternatives

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Amend Section 424B.20, subdivision 4a, to permit the board of trustees to take actions to reduce the surplus:

- Board could reduce surplus by approving an increase in the lump sum amount and legislation could provide that the final lump sum amount is limited only by the available surplus and federal limits. (See hand-out, “Applicable Federal Law”.)
- Board could reduce surplus by providing retiree medical coverage (more research on this topic will be necessary to determine applicable law and any other concerns).

# Proposed legislation alternatives

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Once actions are taken to reduce the surplus (per previous slide), legislation could change who receives the surplus.

Alternatives:

- Work group previously decided:
  - None of the surplus should go to the state, and
  - Probably not all of the surplus should go to the municipality (as required by current law)
- Only to the firefighters?
- Shared between municipality and firefighters?
  - Even 50-50 split?
  - Take into account contributions by the municipality? (See slides 29 and 30 for allocation methods.)
  - Any difference if required versus voluntary contributions? How many years back?

# Proposed legislation alternatives

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One necessary change:

- Add provisions to address what happens when a municipality terminates the employment of all its non-career firefighters (Maplewood)
  - Federal tax law requires the relief association pension plan to consider that a “partial termination” of the plan. (See hand-out, “Applicable Federal Law”.)
  - “Partial termination” requires full vesting of all affected firefighters.
  - Proposed legislation could incorporate this federal requirement so it is known.

# Proposed legislation alternatives

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Other possible changes:

- Require automatic dissolution of the relief association and termination of the pension plan?
- Allow a relief association to dissolve or a pension plan to be terminated without municipal approval?
- Housekeeping changes to have separate statutes and procedures for dissolution of the relief association and termination of the retirement plan?