Work Group on Relief Association Conversions and Dissolutions Report

Summary of the Report

LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MARCH 12, 2019

Establishment and Purpose

The pension and retirement bill enacted in 2018 directs the LCPR executive director to:

- Convene a work group during the interim to study issues arising from volunteer firefighter relief association pension plans with assets that exceed what is needed to pay accrued pension benefits (funded ratio exceeds 100%); and
- Prepare a report summarizing the findings and recommending legislation.

Establishment and Purpose

Specifically, the 2018 act requires the work group to study the following:

- Current state statutes, if any, on:
  - How to convert from a defined benefit plan (DB) to a defined contribution plan (DC); and
  - Who should receive surplus assets when a relief association ends;
- The prevalence of the issue; that is, how many relief associations have significant surplus and what actions are being taken that would access the surplus, such as:
  - Transitioning from using volunteers to career firefighters; and
  - Converting from a DB to a DC;
- How would a relief association convert from a DB to a DC plan?
- Who should receive surplus assets when a relief association dissolves, the firefighters, the municipality, or the state?

Work Group Members

- Municipal officials:
  - Merrill King, Finance Director, Minnetonka – elected chair by the members
  - Dean Lotter, Manager, New Brighton
  - William Reynolds, City Administrator, Shakopee
- League of Minnesota Cities:
  - Anne Finn, Assistant Intergovernmental Relations Director
- Fire chiefs:
  - George Esbensen, Fire Chief and Director of Emergency Preparedness, Eden Prairie Fire Department (retired at end of 2018)
  - Greg Peterson, Fire Chief, White Bear Lake Fire Department
  - Martin Scheerer, Fire Chief, Waconia Fire Department (retired at end of 2018)
  - Tim Wiebe, Fire Chief, Chaska Fire Department

Work Group Members

- Volunteer firefighters:
  - Bruce Hemstad, Bemidji Fire Relief Association
  - Mark Rosenblum, Golden Valley Fire Department and MSFDA President
- Independent nonprofit firefighting corporation:
  - Bruce Carlson, Treasurer, Lake Johanna Fire Relief Association
- Office of the State Auditor:
  - Rose Hennessy Allen, Pension Division Director
- Other firefighters with helpful expertise:
  - Mike Walstien, Plymouth Fire Relief Association
  - Aaron Englesrud, President, Woodbury Fire Relief Association
  - Michael Kruse, Treasurer, Falcon Heights Fire Dept. Relief Association

Data on Funded Status of Relief Associations

The work group considered State Auditor data on the funded status of volunteer firefighter relief associations statewide.

- The 2017 data is attached to the report as Exhibit A.
- Summary of the data:
  - 8 relief associations are 300% funded, or more;
  - 27 relief associations are 200-299% funded;
  - 412 relief associations are 100-199% funded;
  - 30 relief associations are 90-99% funded; and
  - 17 relief associations are less than 90% funded.

Fire Chief Survey

THE WORK GROUP CONDUCTED A SURVEY OF MINNESOTA FIRE CHIEFS.

Fire Chief Survey

The work group sent a survey to all fire chiefs in every fire department in the state.

- Survey was sent to 775 fire chiefs.
- During the survey period (September 20 to October 1, 2018), 293 fire chiefs or their representatives, or 38% of the total, responded.
- A map showing the location of each of the respondents is attached to the report as Exhibit B.
- Survey questions and responses are attached to the report as Exhibit C.

Fire Chief Survey – Highlights

- 56% of the respondents reported that their service area was 50 square miles or more.
- 31%, the largest percentage, of the respondents reported that their service area included 1,000 to 4,999 residents.
- 3.5% of the respondents reported that their fire department does not have "non-career" firefighters, meaning that all the firefighters in these departments are "career," sometimes referred to as "salaried" or "full-time" firefighters.
  - These respondents were kicked to the end of the survey and did not answer the rest of the questions. The remaining 96.5% of the respondents, or 276 fire chiefs, continued with the rest of the survey.

Survey – Departments with Non-Career Firefighters

- 23% have both career and non-career firefighters ("combination" departments).
- 19% pay their firefighters no compensation (truly "volunteers").
- 81% pay their non-career firefighters:
  - 59% are paid on an hourly basis, at an average of $12.07 per hour
  - 54% are paid on a per-call basis, at an average of $12.21 per call
  - Note: this totals over 100% and we have no explanation for this – perhaps some departments pay both
- 74% have retirement benefits through a relief association.
- 26% have retirement benefits from the PERA Statewide Firefighter Plan.

Survey – Departments with Non-Career Firefighters

- City councils or township boards that are considering changes to their fire departments or firefighters:
  - 33 are considering adding more firefighters;
  - 18 are considering reducing reliance on non-career firefighters;
  - 87 are considering increasing the per hour or per call rate for non-career firefighters; and
  - 28 are considering changes similar to the above.
- 11% have a defined contribution plan.
  - Note: According to the 2017 data on volunteer firefighter relief associations collected by the State Auditor, 85 out of 579 reporting relief associations, or 15%, are defined contribution plans.
- 89% have a defined benefit plan. Of those 246 departments:
  - 2% reported that the relief association board had considered converting from a defined benefit plan to a defined contribution plan.
  - 10% responded "I don't know."

Converting from Defined Benefit to Defined Contribution

OBJECTIVE: PROPOSE LEGISLATIVE ALTERNATIVES REGARDING RELIEF ASSOCIATION CONVERSION FROM A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN

Step I – Board of Trustees Resolutions

- **Approval.** To convert, the relief association board of trustees **must** adopt the following resolutions:
  - Approval of the conversion from a defined benefit plan to a defined contribution plan.
  - Approval of the conversion effective date.
  - Adoption of a new defined contribution plan document that:
    - specifies eligibility, annual allocations to accounts, vesting, distributions, ancillary benefits; and
    - otherwise complies with Minnesota Statutes, Section 424A.016.
  - Approval of full (100%) vesting of all firefighters (active and inactive) as of the conversion date to the extent of the plan's assets *(as required by federal law).*

Step I – Board of Trustees Resolutions

- **Optional Benefit Level Increase.** The relief association board of trustees **may** approve an increase in the benefit level to reduce the surplus.
  - The "benefit level" is the dollar amount identified in the relief association bylaws, which is multiplied by years of service to arrive at each firefighter's lump sum pension amount.
  - The new benefit level need not be limited to the current statutory limit of $10,000. *(This will require amending the limit that would otherwise apply, to exempt benefit level increases due to conversion.)*

Step I – Board of Trustees Resolutions

- **Disposition of Surplus Assets.** The board of trustees **must** approve a procedure for allocating a surplus (that is, any assets remaining after pension benefits have been paid).
  - The board will need to determine whether only active firefighters or both active *and* inactive firefighters will share in the surplus.

Alternatives are:

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

-OR-

- **Service-based method:** Each 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-

Step I – Board of Trustees Resolutions

- **Firefighter/municipality-sharing 2-step method:**
  - **First Step**
    - Option 1: Municipality receives a share of the surplus based on this ratio:

$$\frac{\text{Municipal contributions since [year]}}{\text{Total of fire state aid + municipal contributions since [same year]}}$$

    - Option 2: Municipality receives a share of the surplus based on the ratio above and the board sets conditions on its use. Examples of conditions:
      - It must be contributed back to the relief association defined contribution plan over the next five (or other number) years, for allocation to the accounts of future firefighters.
      - It must be used by the municipality to buy firefighting equipment or other specified firefighting related purposes.
      - It must be used by the municipality to provide health insurance or other welfare benefits for its firefighters.
  - **Second Step**
    - Either option: Remaining surplus allocated to firefighters using the per capita, service-based, or another method.

Step I – If Plan Has Fewer Assets Than Liabilities

Conversions by underfunded plans would be prohibited, unless the board of trustees offers either of the following alternatives:

- **A resolution amending the bylaws** to decrease the benefit level to reduce liabilities so assets are sufficient to fund the benefits of all firefighters; or
- **An agreement with the municipality** to contribute an amount sufficient to cover all benefit liabilities at the current benefit level.

Both alternatives need to take into account the need to fully vest the pension benefits of all active and inactive firefighters.

Step II – Determine the Value of the Pension Benefits

The board of trustees will determine the approximate value of each firefighter's fully vested accrued benefit as of the conversion date. (Value is "approximate" because assets are subject to investment volatility.)

The board must determine value in one of two ways:

- **By using the method under Minnesota Statutes**, Section 424A.092, Subdivision 2, to determine a plan's funded status by calculating the value of each firefighter's accrued benefit using a table in the statute; or
- **As determined by an actuary** retained by the relief association, who is an "approved actuary" under Minnesota Statutes, Section 356.215, Subdivision 1, Paragraph (c).

Step III – Notice to Firefighters

- The relief association board must provide notice to all affected firefighters, both active and inactive, at least 90 days before the conversion date.
- The notice must include the following:
  - An explanation of the following:
    - The reasons for converting the plan from defined benefit to defined contribution;
    - The process to be followed, including the effective date of the conversion;
    - The full vesting of all active and inactive firefighters;
    - Any benefit level increase and whether it applies to only active firefighters or inactive too;
  - A summary of the terms of the newly adopted defined contribution plan;
  - Information specific to the firefighter receiving the notice, which must include an estimate of the value of the firefighter's accrued benefit (fully vested) and the method used to calculate that value;
  - An estimate of any anticipated surplus and how the surplus will be allocated among firefighter accounts and whether or not the municipality will receive any of the surplus and any conditions on its use; and
  - Contact information for the member(s) of the board who will answer questions and provide the new defined contribution plan document or a summary upon request.

Step IV – Notice to Municipality and State Auditor

- The relief association board must provide notice to:
  - The municipality affiliated with the relief association; and
  - The State Auditor.
- The notice must include:
  - All of the information provided to the firefighters; except
  - The individualized information will be compiled as a list of names of the active and inactive firefighters and each firefighter's accrued benefit amount.

Step V – Implement the Conversion

- The board of trustees must adopt new defined contribution plan documents.
  - The work group suggested that the State Auditor make available sample bylaws for this purpose.
  - LCPR staff may be able to provide assistance with plan document preparation and legal compliance.
- The board must establish a recordkeeping account in the trust for each firefighter under the defined contribution plan, recording:
  - The value of the firefighter's fully vested benefit as determined as of the conversion date; and
  - The surplus allocated for the benefit of the firefighter.

Disposition of Surplus Assets Upon Plan Termination

OBJECTIVE: PROPOSE LEGISLATIVE ALTERNATIVES REGARDING DISPOSITION OF SURPLUS ASSETS UPON PLAN TERMINATION OR RELIEF ASSOCIATION DISSOLUTION

Minnesota Statutes, Section 424B.20

“Dissolution Without Consolidation”

- Minnesota Statutes, Section 424B.20, Subdivision 1, applies to two situations:
  - When the fire department dissolves or is eliminated by the municipality or firefighting corporation.
  - When the relief association is dissolved or eliminated with municipal approval, but the fire department is not dissolved or eliminated.
- Situations not covered by the statute:
  - A municipality eliminates its fire department but the relief association does not want to dissolve or terminate its pension plan.
  - A relief association wishes to terminate its pension plan, even though the fire department is ongoing and the relief association will continue.
  - A relief association wants to dissolve and terminate its pension plan, but the municipality will not give its approval.
  - The municipality terminates the services of all non-career firefighters and decides to staff the fire department with only career firefighters. The relief association does not want to dissolve or terminate its pension plan.

Section 424B.20, Subdivision 1

Recommendations for Amending Subdivision 1

- **Broaden application.** The statutes governing dissolution of relief associations should be amended to apply broadly to all dissolutions, whatever the circumstances.

- **Require automatic dissolution and plan termination.** Under current state law, if a municipality ends its use of non-career firefighters and transitions to using only career firefighters, the relief association is not required to dissolve and terminate its pension plan, even though there are no longer any active firefighters receiving credit for more years of service.
  - As long as the relief association continues to exist, it will continue to receive fire state aid, which does not increase firefighter benefits, but does increase the surplus.
  - The work group recommended amending current law to add the requirement that a relief association will be automatically dissolved and the pension plan automatically terminated if a municipality terminates the services or ends the employment of all of its non-career firefighters.

Section 424B.20, Subdivisions 2-5

Current law establishes procedures for dissolving a relief association and terminating the pension plan:

- The relief association board of trustees is required to:
  1. **Calculate assets**, accounts payable, and 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;
  4. **Transfer remaining assets to the municipality** for deposit into a trust

     -OR-

     Purchase annuity contracts that will pay out pension benefits at retirement age;
  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.

Section 424B.20, Subdivisions 2-5

Recommendations for Amending Subdivisions 2-5

- **Require immediate full vesting.**
  - As required by federal and state law, upon plan termination, the statute would require that all benefits become 100% vested, including for inactive firefighters.
- **Allow for benefit level increases.**
  - The relief association board will be permitted to amend the articles or bylaws to increase the benefit level up to 125% of the current statutory maximum.
  - With the statutory maximum currently at $10,000, this means the relief association could approve an increase in the benefit level of up to $12,500 (provided there are enough assets to fund the increase).
- **Retain current law on calculation of benefits.**
  - Current law requires determining the value of assets, accounts payable, and benefit liabilities. This would be retained, but would be amended to note that the benefit calculation will have to take into account full vesting and any increase in benefit level.
  - Similarly, the current provision requiring the preparation of a schedule setting forth each firefighter's pension amount and service would be retained.

Section 424B.20, Subdivisions 2-5

- **Allow immediate distributions.**
  - The relief association would be required to make distributions to all firefighters immediately (with the option to elect a rollover), regardless of the age of the firefighter.
  - In other words, in the case of a plan termination, firefighters would not have to wait until age 50 to receive a distribution of their pension benefits.
- **Provide supplemental benefits at any age.**
  - Under Minnesota Statutes, Section 424A.10, firefighters who are at least age 50 and receive a distribution are entitled to a supplemental benefit.
  - The statute would be amended to allow for payment of the supplemental benefits to all firefighters, regardless of age, and any survivors who would otherwise be entitled to the payment under current law. The relief association would be required to reserve enough assets to pay the supplemental benefits as required by current statute.
- **Pre-termination notice.**
  - Current statutes require notice to the Commissioner of Revenue, State Auditor, and the Secretary of State within 30 days after the dissolution of a relief association.
  - The timing of this notice would be amended to require that notice be given at least 30 days prior to the wind-down of the relief association and termination of the plan.

Section 424B.20, Subdivision 4, Paragraph (b)

Current law requires that, after the municipality pays out all pension benefits to the firefighters according to the schedule, ***"any remaining assets in the trust fund cancel to the general fund of the municipality."***

Alternatives discussed by the work group:

- Retain current law, which would transfer the surplus to the municipality;
- Amend to require distribution of the surplus among the firefighters; and
- Variations that would split the surplus between the municipality and the firefighters.

Section 424B.20, Subdivision 4, Paragraph (b)

Work Group Compromise for Allocating Surplus

- **If there is still a surplus,** after full vesting and a benefit level increase (up to $12,500):
  - **If municipality made required contributions during the preceding ten years:**
    - **The relief association would be required to transfer the surplus to the municipality,** but only up to the amount of required contributions made by the municipality over the preceding 10 years (without any interest or earnings).
    - **The municipality would be required to use the surplus to make payments authorized by Section 424A.08.** Authorized payments include:
      - Contributions to PERA Police and Fire Plan for firefighters;
      - Payments to purchase and maintain fire equipment; and
      - Payments to construct, acquire, repair, or maintain fire department buildings.

Section 424B.20, Subdivision 4, Paragraph (b)

- **If the municipality did not make required contributions during the preceding 10 years or the relief association still has surplus after paying back the 10 years of required contributions:**
  - **Require the relief association and the municipality to agree** on how to split the remaining surplus.
  - **If the relief association and the municipality cannot reach agreement** within 6 months of the plan termination date on how to split the surplus, the surplus must be paid to the firefighters.
    - The surplus is to be split among the firefighters according to the criteria established by the board of trustees, either based on years of service or in equal share to each firefighter.
    - The board will need to decide which firefighters will share in the allocation: only active firefighters, or if inactive and recent retirees, as defined by the board, will also share in the surplus.
    - Since the issuance of the work group report, an objection has been raised by the League of Minnesota Cities to this last recommendation. The League suggests consideration of a compromise which would evenly split the surplus between the municipality and the firefighters (if no agreement).

Section 424B.20, Subdivision 4a

Minnesota Statutes, Section 424B.20, Subdivision 4a, enacted in the 2018 pension bill, applies to Plymouth and three other relief associations, and requires any surplus upon dissolution or termination of these relief associations to be paid to the State's general fund.

Recommendation for Subdivision 4a

- **The work group recommends the repeal of this Subdivision 4a, so the requirements regarding disposition of surplus apply uniformly to all relief associations.**