



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Chad Burkitt, Analyst

RE: H.F. 483 (Poppe); S.F. 570 (Sparks): Austin Volunteer Firefighter Relief Association;
Extending special legislation providing for alternative allocation of fire state aid for the
City of Austin

DATE: March 11, 2019

Background Information

Generally, statute requires that all fire state aid a municipality receives must be transmitted to the affiliated volunteer firefighter relief association (VFRA) if one exists. Before 2013, Minn. Stat. § 353A.10, Subd. 6, provided an exception to this requirement for municipalities with a paid firefighter relief association that had merged into the Public Employees Police and Fire Retirement Plan (PERA-P&F). Under that exception, eligible municipalities were able to allocate an appropriate portion of fire state aid to help fund any municipal contributions owed to PERA-P&F due to the merger.

By 2013, all paid firefighter relief associations that were eligible had merged into PERA-P&F. Further, by that time any municipal contributions owed due to a merger had been paid off. As a result, a clean-up bill that was vetted by stakeholders and approved by the Legislative Commission on Pensions and Retirement (LCPR) was enacted in 2013. The clean-up bill repealed statutes determined to be obsolete because they related to paid relief association mergers. All of Chapter 353A, including the exception under Section 353A.10, Subd. 6, was repealed because, according to staff materials, the original intent behind the chapter had been satisfied. So, going forward, municipalities were no longer permitted to continue allocating fire state aid between the affiliated VFRA and PERA-P&F.

The City of Austin had a paid firefighter relief association merge into the PERA-P&F plan in the late 1990s and was therefore allowed to allocate fire state aid between the VFRA and PERA-P&F employer contributions. The City still has a combination fire department. A combination fire department has both career firefighters who have a pension under PERA-P&F and volunteer (or paid on call) firefighters who have service pensions under a VFRA or the Public Employees Retirement Association (PERA) Voluntary Statewide Volunteer Firefighter Retirement Plan (PERA-SVF).

At the time of the 2013 repeal, the City appeared to be the only municipality that still utilized Section 353A.10, Subd. 6. The City, unaware that the provision had been repealed, continued to allocate a portion of fire state aid and supplemental state aid to pay employer contributions on behalf of firefighters covered by PERA-P&F. The City and VFRA members have an agreement on how the fire state aid and supplemental state aid is allocated, which is codified in the VFRA bylaws.

Despite the repeal and the City's ongoing allocation of fire state aid, the Office of the State Auditor (OSA) continued to certify that the VFRA was eligible to receive fire state aid for 2013, 2014, and 2015. Certification to receive fire state aid means that a VFRA is in compliance with all applicable statutes. On

March 31, 2016, the OSA sent the City a notification that Section 353A.10, Subdivision 6, had been repealed in 2013. The notice informed the City that, as a result of the repeal, the City did not have statutory authority to allocate fire state aid and supplemental state aid, and the City owed the VFRA for the state aid, totaling \$214,650, for 2013, 2014, and 2015 that had been paid to PERA-P&F. On September 1, 2016, the OSA sent the City notification that until the City paid the amounts owed to the VFRA, the OSA would not be able to certify that the VFRA is eligible to receive 2016 fire state aid.

The 2018 Omnibus Pension Bill provided a temporary fix by including special legislation allowing the City of Austin to continue allocating fire state aid between the Austin VFRA and PERA-P&F until 2019. The special law also removes the City's \$214,650 debt to the VFRA in order to continue receiving fire state aid. The bill also established the Fire State Aid Work Group to recommend general legislation that would address this issue for other combination fire departments. The Work Group produced a report to the Commission that recommended that municipalities with combination fire departments be permitted to allocate fire state aid between their relief associations and contributions for PERA P&F.

The City of Austin is again requesting special legislation to extend the special law until 2020. This allows the city to receive the 2019 fire state aid and to allocate the aid between the Austin VFRA and PERA-P&F until 2020. It would also allow time for any potential general legislation for the allocation of state aid by municipalities to take effect.

Summary of H.F. 483 (Poppe); H.F. 570 (Sparks)

The bill extends the provisions of the previous special legislation by changing the expiration date from July 1, 2019, to July 1, 2020.

The main components of the existing special legislation set to expire on July 1, 2019, are as follows:

1. Permits the City of Austin to allocate a portion of fire state aid to pay employer contributions on behalf of firefighters covered by PERA-P&F rather than pay the full amount to the VFRA as required under current statute for an additional year.
2. Requires that the City to continue transmitting all supplemental state aid it receives to the VFRA.
3. Removes a requirement to repay the \$214,650 debt dating back to 2013 that is owed to the VFRA under current law.

Proposed Amendment H0483-1A

H0483-1A amends the bill by making the following changes:

1. Extends to 2019 the period during which the City of Austin is exempt from repaying debt still owed to the VFRA under current law.
2. Clarifies that paragraph (b), removing the City's liability for the existing debt, does not expire.
3. Adds language to the effective date requiring the City to adopt a resolution approving the law before it becomes effective. This language is required for special legislation that applies only to a particular governmental subdivision.

Discussion and Analysis

H.F. 483 (Poppe); H.F. 570 (Sparks) and Amendment H0483-1A raise the following pension and public policy issues:

1. Allocation of Fire State Aid. As it currently exists, fire state aid is a mechanism for funding the personnel costs of providing fire protection for local governments. Requiring a municipality to pay all of its fire state aid to its relief association perhaps helps ensure that relief associations remain able to meet their obligations to their volunteer firefighters. However, there may be compelling reasons to allow a municipality with a VFRA to use a portion of fire state aid to pay other obligations, such as increasing PERA-P&F employer contributions. This consideration has been more thoroughly explored through the Fire State Aid Work Group.
2. General vs. Special Legislation. The LCPR and the Legislature favor general legislation over special legislation. General legislation is preferable when the issue the proposed legislation addresses affects more than one entity. According to recent data, there may be at least 78 combination fire departments in Minnesota. This data does not include municipalities where volunteer firefighters are members of PERA-SVF, so there may be even more combination fire departments.

The 2018 Omnibus Retirement Bill established the Fire State Aid Work Group to recommend general legislation to the LCPR during the 2019 legislative session. The Work Group has prepared a report that includes a recommendation for legislation. If the recommendation of the Work Group is enacted, the City of Austin would no longer require special legislation to continue allocating fire state aid between the VFRA and PERA-P&F. However, the Work Group's recommendation does not address any liability the City of Austin may still have for failing to pay the full fire state aid to the relief association between 2013 and 2018.