

HF 1107 (Murphy): Statewide Volunteer Firefighter Plan; Allocation of Fire State Aid between the Statewide Volunteer Firefighter Plan and Municipalities

Prepared by: Chad Burkitt

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Introduction

Affected Plan: Statewide Volunteer Firefighter Plan (“Statewide Plan”) administered by the Public Employees Retirement Association (PERA).

Laws Amended: Minnesota Statutes, Section 477B.04; establishes new Section 477B.042

Brief Description: The bill authorizes municipalities¹ with both volunteer firefighters (covered by the Statewide Plan) and career firefighters (covered by the Public Employees Police and Fire Plan) to receive a portion of their fire state aid to pay employer contributions on behalf of career firefighters. This bill is the second of two bills recommended by the Fire State Aid Work Group. The first bill, enacted in 2020, allows municipalities with both volunteer firefighters covered by a fire relief association and career firefighter covered by the Police and Fire Plan to split (or allocate) their fire state aid between the two groups of firefighters.

Attachments: [Fire State Aid Work Group Report](#)
[May 16, 2020, Staff Memo Regarding Differences Between Statewide Plan’s Sharing of Fire State Aid with Municipalities](#)

Background

Payment of Fire State Aid

Under current law, a municipality’s fire services can be categorized as one of the following:

1. A volunteer department, with volunteer firefighters covered by an affiliated volunteer fire relief association or by the Statewide Plan;

¹ “Municipalities” includes independent non-profit firefighting corporations.

2. A career department, with career firefighters covered by the Public Employees Police and Fire Plan (“Police and Fire Plan”); or
3. A combination department, with a combination of both volunteer firefighters and career firefighters where the career firefighters are covered by the Police and Fire Plan and the volunteer firefighters are covered by a relief association or by the Statewide Plan.

If a municipality has only volunteer firefighters, all of the fire state aid it receives is transferred to the relief association or to the Statewide Plan to pay for retirement benefits. If a municipality has only career firefighters, the municipality retains the fire state aid, but can only use it to pay employer contributions to the Police and Fire Plan. Before 2020, a municipality with a combination department was required to transfer all of its fire state aid to the relief association or Statewide Plan and was not permitted to retain any for its career firefighters.

2020 Legislation

The 2020 Omnibus Pension bill changed the law for municipalities with combination departments in which volunteer firefighters are covered by a relief association. Such a municipality is now permitted to enter into an agreement with its relief association to split (or allocate) fire state aid between the relief association and its career firefighters. The fire state aid must still be used for retirement benefits

However, the 2020 bill did not address fire state aid for municipalities with combination departments in which volunteer firefighters are covered by the Statewide Plan. For such municipalities, fire state aid is transmitted by the Department of Revenue to PERA for deposit in the Statewide Plan and the municipality cannot use any of the fire state aid to make contributions for career firefighters. Differences between relief associations and the Statewide Plan necessitated a different approach for determining the amount of fire state aid that can be allocated to the municipality, which is more fully explained in the attached [May 16, 2020, memorandum](#).

Interim Work

At the May 13, 2020, meeting of the Commission, the Commission Chair directed staff to work with PERA and other stakeholders to complete a bill to permit aid allocation for combination departments covered by the Statewide Plan.

Commission staff formed an informal workgroup made up of volunteer firefighters, representatives of municipalities, and the PERA executive director and legislative staff. The informal workgroup provided input for a proposal that was sent to PERA’s Statewide Volunteer Firefighter Plan Advisory Board. The Advisory Board recommended a modified version of the proposal to the PERA Board of Trustees, which approved the modified proposal. HF 1107 is the proposal approved by the PERA Board of Trustees.

The Statewide Plan

The Statewide Plan was established in 2009 to provide retirement benefits to volunteer firefighters not wishing to organize and maintain their own retirement benefits through a relief association. The plan is

administered by PERA and its assets are invested by the State Board of Investment. Typically, a municipality becomes a sponsor in the plan after its associated relief association votes to transfer its retirement plan to the Statewide Plan. As of December 31, 2019, there were 171 municipalities or departments with firefighters covered by the statewide plan. Of those 171 municipalities, PERA identified 18 as having combination departments. This bill would affect only those 18 combination departments.

The Statewide Plan is governed by Minnesota Statutes, Chapter 353G, which vests policy making authority in the PERA Board of Trustees. Chapter 353G also establishes the Statewide Volunteer Firefighter Plan Advisory Board to advise PERA's Board of Trustees on policy issues related to the plan.

For more information about the Statewide Plan, see this [Plan Description](#).

Section by Section Summary

HF 1107 permits municipalities, which on January 1, 2021, had a combination department, to allocate fire state aid if the municipality files a plan to allocate fire state aid with PERA, PERA approves the plan, and the volunteer firefighters employed by the municipality do not file a petition with PERA to stop allocation of fire state aid.

The bill is in two sections as follows:

Section 1

Under current law, if a municipality is covered by the Statewide Plan, the Department of Revenue must transmit fire state aid to PERA to be credited to each municipality's account. Section 1 of the bill amends Minnesota Statutes, section 477B.04, subdivision 3 to create an exception for this process when PERA has approved an aid allocation plan. If PERA has approved an aid allocation plan, then fire state aid must be deposited as required under the new section 477B.041 (Section 2 of the bill).

Section 2

Section 2 of the bill proposes a new section 477B.041, which is divided into 8 subdivisions, as follows:

Subdivision 1 provides definitions for the new section. Most of the definitions simply improve clarity and readability of the section. However, the definitions for "combination department" and "covered period" are substantive. The definition for "combination department" limits which combination departments can allocate fire state aid to only those which, "during the previous calendar year and on January 1, 2021," employed one or more firefighters covered by the Statewide Plan and one or more firefighters covered by the Police and Fire Plan. The effect of this language is that a department which becomes a combination department after January 1, 2021, such as by hiring a full-time firefighter to its all-volunteer fire department, will not be able to allocate fire state aid under this section unless additional action is taken by the legislature.

The definition of "covered period" limits the duration of an aid allocation plan to no more than 3 years.

Subdivision 2 authorizes combination departments to submit, on or after March 1 of each year, an aid allocation plan to PERA. Among other requirements, the aid allocation plan must:

- Be approved by the governing body of the combination department;
- Specify the amount of fire state aid that will be transmitted to the combination department;
- Specify the period of time covered by the plan; and
- Include the date that notice was provided to firefighters.

Subdivision 3 requires PERA to approve an aid allocation plan if the plan meets the requirements listed in subdivision 2 and if, within 45 days after receiving the plan, PERA doesn't receive a petition to stop aid allocation described in subdivision 6.

Subdivision 4 directs PERA to deposit fire state aid with a municipality for which it has approved an aid allocation plan. The subdivision places restrictions on how much of the fire state aid may be transmitted to a municipality. PERA transmits to each municipality the amount of fire state aid listed in its aid allocation plan except that the following restrictions apply:

- A municipality cannot receive more than it contributed in employer contributions for career firefighters during the previous calendar year.
- A municipality cannot receive more than the amount of fire state aid that PERA receives in a given year for that municipality.
- A municipality cannot receive more than the amount of fire state aid left over after the municipality's funding requirement is met for that year.
- A municipality cannot receive fire state aid unless its account in the statewide plan is at least 100% funded and cannot receive an amount that would result in the municipality's account being less than 100% funded.

Fire state aid transmitted to a municipality by PERA is considered a reimbursement of the municipality's employer contributions made during the previous year. As a result, municipalities are permitted to use the fire state aid funds for any lawful purpose.

Subdivision 5 governs the ability of municipalities to terminate or modify an aid allocation plan once it has been approved by PERA. The municipality may modify or terminate an aid allocation plan upon an action of its governing body. Such modification or termination applies only to subsequent aid allocation payments.

Subdivision 6 permits the volunteer firefighters of a municipality that has submitted an aid allocation plan, to petition PERA to stop the aid allocation. The petition must be submitted within 45 days after the municipality submits its aid allocation plan. The petition must be in writing on a form prescribed by the executive director and must include the names and signatures of a majority of the active volunteer

firefighters in the department. PERA’s executive director is required to verify that the names match PERA’s records. PERA’s executive director must grant the petition if it is in good order. If the petition is granted, the municipality may submit a revised plan and the firefighters have another opportunity to file a new petition to stop aid allocation.

Subdivision 7 requires a municipality to notify its volunteer firefighters 30 days before it submits an aid allocation plan to PERA. The notice must include a copy of the aid allocation plan.

Subdivision 8 requires PERA to prescribe a form for firefighters to use when filing a petition to stop aid allocation and authorizes PERA to prescribe other forms as needed.

Effective Date

Both Sections 1 and 2 are effective for aids payable in 2022 and thereafter.

Analysis

Who is affected?

This bill affects 18 municipalities. Each of the 18 municipalities’ fire departments is listed below along with information for each, provided by PERA:

Municipality or Departments	Benefit or Lump Sum Amount	Active Police and Fire members	Active Statewide Plan members	Total Fire State Aid	Annual Excess FSA*	Funded Ratio
SPRING LAKE PARK-BLAINE-MOUNDS VIEW FIRE DEPT	Monthly	13	54	\$470,794	\$313,958	151%
WHITE BEAR LAKE	Monthly/LS	6	25	\$248,007	\$89,223	131%
COTTAGE GROVE FIRE DEPARTMENT	6,000	9	40	\$206,430	\$145,324	144%
OAKDALE VOLUNTEER FIRE DEPARTMENT, INC.	7,800	12	28	\$165,447	\$126,290	131%
MAHTOMEDI FIRE DEPARTMENT	5,200	4	15	\$78,108	\$63,611	235%
LINO LAKES FIRE DEPARTMENT	5,000	1	24	\$121,630	\$66,589	164%
WILLMAR FIRE DEPARTMENT	5,000	1	36	\$108,351	\$56,923	121%

Municipality or Departments	Benefit or Lump Sum Amount	Active Police and Fire members	Active Statewide Plan members	Total Fire State Aid	Annual Excess FSA*	Funded Ratio
WACONIA FIRE DEPARTMENT	4,800	1	25	\$90,597	\$58,106	157%
ISANTI AREA JOINT OPERATING FIRE DISTRICT	5,500	2	30	\$84,606	\$51,099	119%
VICTORIA FIRE DEPARTMENT	3,500	1	34	\$67,691	\$24,175	116%
SCANDIA FIRE/RESCUE DEPARTMENT	3500	1	21	\$34,426	\$17,725	119%
CAMBRIDGE FIRE DEPARTMENT	4,600	1	27	\$79,489	\$33,024	101%
SAINT FRANCIS FIRE DEPARTMENT	2,900	2	23	\$39,189	\$17,779	161%
MELROSE VOLUNTEER FIRE DEPARTMENT	2,300	1	25	\$33,303	\$14,508	107%
VADNAIS HEIGHTS	4,400	4	38	\$83,495	\$25,638	152%
TOWER FIRE DEPARTMENT	1,000	1	11	\$8,759	\$5,471	158%
ALBERT LEA FIRE DEPARTMENT	2,500	16	14	\$92,118	\$75,815	226%
INTERNATIONAL FALLS	1,000	8	28	\$59,482	\$8,750	110%

** Annual Excess FSA is equal to the annual Fire state aid minus the normal cost. Normal cost is the amount required to pay the accrual of a new year of retirement benefits.*

The bill creates in effect a pilot program because it does not permit departments that become combination departments after January 1, 2021 to allocate fire state aid. Members of the PERA Statewide Volunteer Firefighter Plan Advisory Board indicated at a meeting of the Board that they would consider recommending expanding the law to permit new combination departments after seeing how it works for these departments. The commission may wish to consider whether the bill should be amended to apply to future combination departments.

How much fire state aid will municipalities be able to use for reimbursing employer contributions to the Police and Fire Plan?

This bill makes it possible for 18 municipalities to allocate excess fire state aid to for reimbursement of employer contributions to the Police and Fire Plan. The amount each municipality can allocate is restricted as described in Section 2, subdivision 4 of the bill. The column labelled “Annual Excess FSA” in the table above gives a rough approximation of the amount that a municipality may gain access to, subject to the limitations in Section 2, subdivision 4. The limitations are intended to ensure that only fire state aid not needed to fund benefits is available to the municipality and to ensure that the fire state aid is only used to pay for firefighter retirement benefits.

Are firefighters adequately protected?

Under current law, each municipality can increase its benefit level under the Statewide Plan for its firefighters through an action of the municipality’s governing body. The maximum benefit level is \$15,000 per year of service. The benefit level for each of the 18 municipalities are listed in the table above.

It is unlikely that this bill will cause accounts in the Statewide Plan to become less than 100% funded. However, it is likely that the bill will cause the plan accounts to be less well funded than they would have been otherwise. The primary risk to firefighters is that lower funding results in a delay in benefit level increases. There are three provisions in the bill intended to address this risk: (1) the petition to stop aid allocation, (2) the three-year maximum for aid allocation plans, and (3) the notice requirements. Together, these protections allow firefighters, at least every three years, to stop municipalities from allocating fire state aid if the firefighters are dissatisfied with the benefit level. The Commission may wish to consider whether these protections are adequate.

Why is this bill different from the bill for the relief associations in 2020?

The Statewide Plan differs from volunteer firefighter relief associations in a few key ways. First, a relief association is a legal entity capable of taking independent legal action and entering into contracts. It has the power and resources to take independent legal enforcement action against a municipality that violates an aid allocation agreement. There is no similarly empowered organization for firefighters in the Statewide Plan.² Second, the board of trustees for a relief association has a fiduciary duty to the members of a relief association to act in their best interest. There is no group with a similar duty to the firefighters in the Statewide Plan that could represent the firefighters to the municipality in a negotiation. Finally, the Statewide Plan itself is administered by PERA and under current law, fire state aid is transmitted by the department of revenue directly to PERA, completely bypassing the municipality. For these reasons, the Statewide Plan requires significant differences in any legislation to allow the allocation of fire state aid between the career and volunteer firefighters for the statewide plan is significantly different than the legislation approved in 2020 for the relief associations.

² There is often a relief association for firefighters in a municipality covered by the Statewide Plan, but it typically functions as a way to raise money for new gear and to organize community events rather than as an organization representing the employee interests of the firefighters.

Legislative Commission on Pensions and Retirement

55 State Office Building
Phone: 651-296-2750

100 Rev. Dr. Martin Luther King Jr. Blvd.
TDD: 651-296-9896; Fax: 651-297-3697

St. Paul, MN 55155-1201
www.lcpr.leg.mn

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