SF 3402 (Bigham) / HF 3777 (Huot): PERA Statewide Volunteer Firefighter Plan; providing vesting alternatives; eliminating provisions that adversely affect retirees during the first five years

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Introduction

Affected Plans: PERA Statewide Volunteer Firefighter Plan ("SVF Plan")

Applicable Laws: Sections 353G.01, 353G.05, and 353G.09

Brief Description: SF 3402/HF 3777 amends Chapter 353G, which governs the SVF Plan, to make the following changes:

- The SVF Plan will now offer volunteer firefighter relief associations three alternative vesting schedules from which to choose when they join the SVF Plan.

- If a firefighter retires within the first five years after the firefighter's relief association has joined the SVF Plan, the firefighter's retirement benefit will be calculated using the benefit level in effect, rather than reverting to the benefit level in effect at the time the relief association joined the SVF Plan. ("Benefit level" is the amount, such as $1,000 or $1,500, that is multiplied by years of service to determine a firefighter's retirement benefit.)

Background

The Statewide Volunteer Firefighter Plan was established in 2009 and is governed by its own chapter in the Minnesota Statutes, Chapter 353G. The SVF Plan is a retirement plan administered by the Public Employees Retirement Association ("PERA") to provide retirement benefits to volunteer firefighters. The SVF Plan is an alternative to having a relief association provide retirement benefits for volunteer firefighters. The SVF Plan is a defined benefit plan that is split into two divisions:

- The lump sum retirement division, which provides a benefit equal to a specified annual benefit level (called a "service pension amount") times years of service, paid to a retiree in a single lump sum distribution; and

- The monthly benefit retirement division, which provides a benefit equal to a specified monthly benefit level times years of service, paid to a retiree in a monthly annuity for life.

With the cooperation of the affiliated municipality, a relief association that no longer wishes to administer its own defined benefit pension plan is able to join the SVF Plan and hand over administration of the plan to PERA. Fire state aid and supplemental aid that would have been paid to the relief association is instead paid to the SVF Plan and credited to an account maintained for the fire department.

A relief association may have a defined benefit plan (offering lump sum or monthly benefits or both) or a defined contribution plan. A defined contribution plan provides each firefighter with an account to which an equal allocation of annual fire state aid and any municipal contributions are credited. A defined contribution relief association that wishes to join the SVF Plan is required to convert to a defined benefit plan since that is the only type of plan currently available under the SVF Plan.

Because of the need for more actuarial work and additional complexity in administration, the SVF Plan had only one fire department in the monthly benefit retirement division as of 2017. (Information publicly available on the SVF Plan is only as current as 2017, notwithstanding requests made by Commission staff to PERA to update this information.)

SVF Plan compared to Relief Associations

While many features remain the same upon joining the SVF Plan, changes that a relief association undergo upon joining the SVF Plan include the following:

- The relief association’s board of trustees no longer administers the recordkeeping and distribution of retirement benefits and the investment of the special fund that funds those benefits.
- Audits of the SVF Plan are conducted by the legislative auditor, while relief associations are audited by the state auditor.
- SVF Plan assets are invested by the State Board of Investment, while each relief association invests its own retirement plan assets.
- The single vesting schedule under the SVF Plan (5 to 20 years) applies even if the relief association had a shorter vesting schedule (could be as short as 5 to 10 years).
- The most significant change occurs in the case of a relief association that is a defined contribution plan. A defined contribution plan provides each firefighter with an account to which an equal allocation of annual fire state aid and any municipal contributions is credited. The SVF Plan will not administer a defined contribution plan. Therefore, if a defined contribution relief association joins the SVF Plan, the plan is “converted” to a defined benefit plan. PERA determines a benefit level based on the average size of the defined contribution accounts.

SVF Plan compared to the PERA Police and Fire Plan

The SVF Plan is similar to the PERA Police and Fire Plan ("P&F Plan") in that many fire departments participate as participating employers in the SVF Plan to provide retirement benefits to their volunteer firefighters, but that is where the similarities end. Dissimilarities between the P&F Plan and the SVF Plan include the following:

- Employees and employers are required to contribute to the P&F Plan; neither employees nor employers are required to contribute to the SVF Plan; employees (volunteer firefighters) are not permitted to contribute to the SVF Plan.
- All contributions to the P&F Plan and investment earnings on those contributions are commingled and invested with the assets of the other statewide pension plans by the State Board of Investment; the State Board of Investment maintains separate accounts for each fire department in the SVF Plan, so funded status varies from fire department to fire department, from significantly overfunded to underfunded.
- PERA's actuary annually evaluates the actuarial status of the P&F Plan and determines whether the contributions are keeping up with annual benefit accruals, but the annual valuation and changes in funded status do not have any direct impact on contribution rates or amount of state aid; under the SVF Plan, PERA annually determines the funding requirements for each fire department and will require a contribution from the affiliated municipality if there is a funding deficiency that will not be covered by fire state aid and investment earnings.
- All members of the P&F Plan have the same benefit formula (i.e., 3% X high five salary X years of service); each fire department has its own benefit level for its volunteer firefighters (i.e., a selected benefit level between $500 and $15,000 X years of service).

Changes to the SVF Plan since its establishment in 2009

In 2015, Chapter 353G was amended to make the following changes:

- The 20 permitted benefit levels were expanded to 71 benefit levels (between $500 and $7,500).
- Monthly benefit relief associations were allowed to join the SVF Plan and a new "monthly benefit retirement division" was established within the SVF Plan.

In 2018, Chapter 353G was amended to permit fire departments to leave the SVF Plan and transfer their assets to a relief association. In addition, permitted benefit levels were again expanded to be the same benefit levels permitted to relief associations.

In 2019, Chapter 353G was amended to permit a municipality to terminate participation in the SVF Plan, which includes fully vesting firefighters in their benefits, allocating any surplus assets among firefighters, and making immediate distributions.

In 2021, Chapter 353G was amended to permit fire departments that employed both salaried and volunteer firefighters on January 1, 2021, to receive a portion of the fire state aid that would have otherwise been paid only to the SVF Plan for the benefit of the volunteer firefighters.

Overview and Policy Considerations

SF 3402/HF 3777 makes substantive changes to two provisions in Chapter 353G:

- Instead of limiting all fire departments in the SVF Plan to a single 20-year vesting schedule, the bill changes current law to offer fire departments three alternative vesting schedules from which to choose when they join the SVF Plan.

  These three alternatives are the following:

  - 5 to 20 years, starting with 40% vested after five years of service and increasing in 4% increments until 100% vesting is reached after completing 20 years of service;
  - 5 to 10 years, starting with 40% vested after five years of service and increasing in 12% increments until 100% vesting is reached after completing 10 years of service; or
  - 10 to 20 years, starting with 40% vested after 10 years of service and increasing in 6% increments until 100% vesting is reached after completing 20 years of service.

  The first is the schedule required for all fire departments in the SVF Plan under current law. The second is an accelerated schedule, which is identical to the most generous schedule permitted to be applied by relief associations under Chapter 424A. The third is a longer schedule than is permitted currently and, if elected by a fire department upon joining the SVF Plan, will mean that until a firefighter has at least ten years of service, the firefighter will receive $0 retirement benefit from the SVF Plan. This longer schedule was requested by a constituent of one of the bill's authors.

- The bill eliminates a requirement that adversely affects firefighters who retire during the first five years after their fire department joins the SVF Plan. Under current law, if a firefighter retires during this initial five-year period, the firefighter will receive an "alternative" benefit if the firefighter has reached at least the age required under the former relief association. Most relief associations apply the age 50 requirement, but relief associations are permitted to impose an older age requirement.

  Upon satisfaction of the separation from service and the age requirement under the former relief association, the alternative benefit to which the firefighter is entitled is:

  - the benefit level in effect when the relief association joined the SVF Plan, multiplied by

  - years of service under the former relief association plus under the SVF Plan, multiplied by

  - the vesting percentage under the 5 to 20 year vesting schedule. (The statute is not clear as to whether only years of service with the SVF Plan count in determining a firefighter's vesting percentage, but we understand PERA allows both service with the SVF Plan and with the former relief association to be considered in determining vesting percentage. Staff will prepare a technical correction for possible inclusion in the end-of-session staff technical corrections bill.)

Since we understand from PERA that most relief associations request a higher benefit level when they apply to join the SVF Plan, a firefighter who retires during the first five years after the firefighter's relief association joins the SVF Plan will receive a smaller retirement benefit than others in the fire department. The policy reasons behind this are difficult to discern. When a relief association applies for coverage by the SVF Plan, the cost analysis done by PERA in approving a request for coverage and the new benefit level that would apply should be able to take into account the benefit liabilities attributable to all current members of the relief association, including members who are nearing retirement.

In addition, the bill makes non-substantive changes to a couple of definitions and to provisions that set forth the procedures that relief associations must follow when they wish to join the SVF Plan.

Section by Section Summary

Section 1

Section 1 amends Section 353G.01, the definitions section, by shortening the defined term, "good time service credit" to "service credit." There is no "bad time service credit" or other distinction being made by adding "good time" before "service credit" throughout Chapter 353G. Elimination of the many references to "good time" from Chapter 353G adds conciseness and makes the statutes easier to read and understand. "Good times" can still be had, they just won't be referred to in Chapter 353G.

Section 2

Section 2 also amends the definitions section, section 353G.01, to expand the definition of "relief association" to include not only relief associations to which assets are transferred when a fire department withdraws from the SVF Plan, as under the current definition, but to also mean "relief association" as used generally to refer to a relief association established under chapter 424A.

Sections 3 to 6

Section 3 is the first of several sections that clarify the procedures for joining the SVF Plan, which are set forth in section 353G.05 (titled "Plan Coverage Election"). Currently, the first three subdivisions are:

Subdivision 1. Coverage.
Subdivision 2. Election of coverage; lump sum.
Subdivision 3. Election of coverage; monthly benefit.

The changes made by these sections of the bill will result in the following subdivisions:

> Subdivision 1. Entities eligible to request coverage.
> Subdivision 1a. Requesting coverage.
> Subdivision 2. Cost analysis for coverage by the lump sum division.
> Subdivision 3. Cost analysis for coverage by the monthly benefit retirement division.

Current subdivision 1, paragraph (a), states that a relief association or a municipality or firefighting corporation affiliated with a relief association may elect to have coverage by the lump sum retirement division or the monthly benefit retirement division. However, only a very small subset of relief associations may elect coverage by the monthly benefit retirement division. Subdivision 3 states that the only entities that may elect coverage by the monthly benefit retirement division are relief associations that are monthly benefit relief associations at the time they apply to join the SVF Plan. Thus, the changes made to subdivision 1 spell out which entities may elect which coverage, as follows:

> Paragraph (a) states that relief associations that are lump sum defined benefit plans or defined contribution plans may elect coverage by the lump sum retirement division of the SVF Plan.
>
> Paragraph (b) states that relief associations that are monthly benefit defined benefit plans may elect coverage by the lump sum retirement division or the monthly benefit retirement division of the SVF Plan.
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> Paragraph (c) retains current paragraph (b), as new paragraph (c), with no changes. This paragraph states that municipalities or firefighting corporations without a relief association may elect coverage by the lump sum division of the SVF Plan.

Section 4 adds a new subdivision 1a, which consolidates several procedural aspects of applying for coverage and applies to all entities eligible to apply under subdivision 1, discussed above. Most significantly, however, are new provisions that permit an entity requesting coverage to elect one of three alternative vesting schedules.

> Paragraph (a) states how to initiate a request for coverage, thereby allowing duplicative statements in subdivisions 2 and 3 to be deleted.
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> Paragraph (b) states that a request for coverage must be in writing, thereby allowing duplicative statements in subdivisions 2 and 3 to be deleted.
>
> Paragraph (c) addresses what an entity electing coverage must include in its request for coverage: the desired benefit level (called "service pension amount") and one of three vesting schedules:
>
> - 5 to 20 years, starting with 40% vested after five years of service and increasing in 4% increments until 100% vesting is reached after completing 20 years of service;
> - 5 to 10 years, starting with 40% vested after five years of service and increasing in 12% increments until 100% vesting is reached after completing 10 years of service; or

- 10 to 20 years, starting with 40% vested after 10 years of service and increasing in 6% increments until 100% vesting is reached after completing 20 years of service.

Paragraph (d) adds one more selection to what must be elected by a monthly relief association, i.e., coverage by either the monthly division or lump sum division of the SVF Plan.

Paragraph (e) states who may make the request for coverage, thereby allowing duplicative statements in subdivisions 2 and 3 to be deleted.

No changes are made to the rest of section 353G.05, consisting of subdivisions 4 (“Invested assets review”), 5 (“Finalization; coverage transfer”), and 6 (“Joint powers entities”).

Sections 5 and 6 retains most of the current language in subdivisions 2 and 3 of section 353G.05 relating to the requirement that the executive director of PERA perform a cost analysis upon receipt of a request for coverage. The cost analysis must now also take into account the vesting schedule elected under new subdivision 1a. Language that is deleted from these subdivisions now appears in subdivisions 1 and 1a.

Section 7

Section 7 amends subdivision 1 of section 353G.09 which sets forth the conditions that must be satisfied for a firefighter to receive a retirement benefit from the SVF Plan. To receive a retirement benefit from the SVF Plan, a firefighter must satisfy the following conditions:

(1) separated from service with the fire department for at least 30 days;

(2) reached at least age 50;

(3) completed at least 5 years of service *as a member of the SVF Plan* (or, if covered by the monthly benefit retirement division, at least the number of years of service under the prior relief association plan); and

(4) has applied for a distribution.

The italicized language in condition (3) requires 5 years of service as a member of the SVF Plan, so a firefighter who retires within the first five years after the firefighter’s relief association joins the SVF Plan will not be entitled to a retirement benefit from the SVF Plan, notwithstanding the likelihood that the firefighter will have accrued many more years of service under the former relief association. The bill replaces the language in current condition (3) with new language that requires satisfying “the minimum service requirement in paragraph (b);”.

New paragraph (b) provides that a firefighter satisfies the minimum service requirement if the firefighter satisfies at least one of the following:

(1) 40% vested (i.e., has at least 5 years of service) as a member of the SVF Plan;

(2) 40% vested based on years of service with the fire department and years of service with the former relief association plus years of service as a member of the SVF Plan is at least 5; or

(3) if the firefighter is covered by the monthly benefit retirement division, at least the number of years of service under the prior relief association plan.

Section 8

Section 8 amends subdivision 2 of section 353G.09, titled “Vesting schedule; nonforfeitable portion of service pension,” to delete the 20-year vesting requirement in current law and replace it with a reference to the vesting alternatives permitted under new subdivision 1a of section 353G.05 (discussed above).

Section 9

Section 9 is an instruction to the Revisor to replace every reference in Chapter 353G to “good time service” with “service”.

Section 10

Section 10 repeals subdivision 3 of section 353G.09, titled “Alternative lump-sum pension eligibility and computation”. This subdivision provides a retirement benefit to a firefighter who would otherwise not receive a benefit under subdivision 1 of section 353G.09 because of the requirement that the firefighter have five years of service in the SVF Plan. The conditions for receiving the alternative benefit are the following:

(1) separated from service with the fire department for at least 30 days;

(2) reached at least age 50 or the age required under the former relief association plan, whichever is later;

(3) completed at least five years of active service with the fire department and at least five years in total as a member of the former relief association and as a member of the SVF Plan; and

(4) had applied for a distribution.

If these conditions are satisfied, the retiring firefighter is entitled to:

(1) the benefit level under the former relief association at the time the fire department joined the SVF Plan; multiplied by

(2) years of service as a member of the former relief association and as a member of the SVF Plan; multiplied by

(3) the vesting percentage under current law (5 to 20 years).

If the former relief association was a defined contribution relief association, the retiring firefighter is entitled to:

(1) the firefighter's account balance at the time the fire department joined the SVF Plan; multiplied by

(2) the vesting percentage under current law (5 to 20 years); plus

(3) 6% annual compound interest from the date the fire department joined the SVF Plan to immediately before the date of retirement.

Repealing this subdivision will allow firefighters who retire at age 50 during the first five years after the relief association joins the SVF Plan to receive a retirement benefit calculated using the same benefit level as all other firefighters in the fire department.

Effective date

All sections are effective the day following final enactment.

Possible Amendments

1. A drafting error appears in lines 6.3 to 6.6 where language that should have been deleted was not deleted. Line 6.3 should be revised to read as follows:

   "(3) has satisfied the minimum service requirement in paragraph (b); and"

   Everything after "and" in line 6.3 should be struck and lines 6.4 to 6.6 should be struck in their entirety.

2. Section 8 should be replaced with entirely new language, leaving subdivision 2 of section 353G.09 unchanged and as it is in current law. The replacement language for Section 8 would add a new subdivision 2a to section 353G.09, which incorporates the changes made in the bill but as a new subdivision that applies to firefighters who become members of the SVF Plan after the effective date of the bill, in connection with the firefighter's relief association or fire department joining the SVF Plan after the effective date of the bill. The new language for Section 8 will read as follows:

   "Subd. 2a. **Vesting schedule after [date of enactment].** Any person who becomes a member of the retirement plan on or after [date of enactment] in connection with the transfer of coverage from a relief association to the retirement plan or in connection with a municipality or independent nonprofit firefighting corporation joining the retirement plan on or after [date of enactment] is entitled to the vested portion of the service pension as determined by applying the vesting schedule elected in the request for coverage under section 353G.05, subdivision 1a."

3. Service for vesting could include all years of service under the former relief association and under the SVF Plan. If this amendment is desired, a new section could be added to the bill to insert a new “subdivision 2b” as follows:

   “Subd. 2b. **Service for vesting.** For the purpose of determining the vesting percentage of a member, all years of active service as a member of the former relief association, as of the date immediately before the election of retirement coverage by the retirement plan, and years of active service as a member of the retirement plan shall be taking into account.”

4. Fire departments currently in the SVF Plan could be given the opportunity to elect one of the alternative vesting schedules. Under the bill, this opportunity is available only when a relief association elects to join the SVF Plan. If this amendment is desired, a new section could be added to the bill to insert a new subdivision 2c as follows:

   “Subd. 2c. **Election of new vesting schedule.** A fire department may elect one of the alternative vesting schedules under paragraph (c) of section 353G.05, subdivision 1a, on or after January 1, 2023, but the vesting schedule elected must not be longer than the vesting schedule in effect for the fire department or increase the number of years of service needed to reach 100% vested. To make such an election, the fire department must file the election with the executive director of the Public Employees Retirement Association at least 90 days before the effective date of the election.”

Legislative Commission on Pensions and Retirement

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