

HF 3636 (Cha); SF 3574 (Pappas) Recommendations of the State Auditor's Volunteer Fire Relief Association Working Group

Prepared by: Sean Kelly, Deputy Director

Date: February 21, 2024

Introduction

- Affected Plans:** Volunteer Firefighter Relief Associations
- Laws Amended:** Sections in Chapters 424A and 424B
- Attachments:** Exhibits prepared by the State Auditor for working group meetings:
- [Exhibit B, Firefighter Definitions, 1/19/2023](#)
 - [Exhibit E, DC Plan Investment Allocations, 9/20/2023](#)
 - [Exhibit F, Investment Report Certification, 11/10/2022](#)
 - [Exhibit F, Dissolution Supplemental Benefit Clarification, 1/19/2023](#)
 - [Exhibit F, Involuntary Dissolution Draft, 10/04/2023](#)
 - [Exhibit H, Municipal Contribution and Financial Requirements, 10/19/2022](#)
- Brief Description:** The bill contains the 2022 and 2023 recommendations of the State Auditor's Volunteer Fire Relief Association working group

General Summary

[HF 3636 \(Cha\); SF 574 \(Pappas\)](#) makes changes recommended by the State Auditor's Volunteer Fire Relief Association working group, including the following:

- Clarifies the requirements a relief association must meet to amend its bylaws to allow for a benefit level increase without municipal ratification;
- Requires the board of trustees of a relief association being involuntarily dissolved to comply with the same requirements that normally apply to dissolutions and gives the State Auditor the authority to waive the requirements if the board of trustees requests such a waiver;
- Clarifies that a person receiving disability or survivor benefits does not have to have reached age 50 to receive a supplemental payment;
- Changes the certification requirements for the "Investment Report Card" so that instead of requiring the entire board of trustees to certify the Investment Report Card, only one member of the board of trustees needs to certify the report.

Background

HF3636/SF3574 is legislation recommended by the State Auditor's Volunteer Fire Relief Association working group. This 13-member group consists of officers of relief associations from around the state, two representatives from municipalities, one representative from the Minnesota State Fire Department Association, one representative from the Minnesota State Fire Chiefs Association, and the State Auditor.

The Office of the State Auditor (OSA) has convened meetings of the working group since 2004 to discuss changes to the statutes governing volunteer firefighter relief associations. The group was not established by Minnesota law and has no official status. The group's purpose statement is the following:

To identify and work through current and pressing relief association issues while maintaining effective and efficient Office of the State Auditor oversight. We will do this by bringing together major volunteer fire relief association stakeholders to develop relationships, facilitate communication, discuss relief association issues, and make the Pension Process easier and more effective. The ultimate goal is to help volunteer fire relief association plans be successful.

Many provisions in this bill were originally introduced during the 2023 legislative session as HF 3286 (Nelson, M.); SF 3316 (Frentz). That bill consisted of the recommendations from the working group's meetings from October 2022 to January 2023. One of the provisions in HF 3286/SF 3316, to increase the threshold for requiring relief associations to file audited financial statements from \$500,000 to \$750,000 in assets or liabilities in any prior year, was passed as part of the 2023 omnibus pension policy bill. The rest of the bill was not considered for passage during the 2023 legislative session due to limited time and resources.

HF3636/SF3574 consists of the provisions from HF 3286/SF 3316 that were not considered during the 2023 legislative session in addition to the recommendations approved by the working group between July and October 2023.

Article- by- Article Summary

Article 1: Clarifying Requirements for Bylaws Amendments

Article 1 amends section 424A.092, subdivision 6, and section 424A.093, subdivision 6, which govern municipal ratification requirements for amendments to the bylaws of a relief association. The working group is seeking changes to this section to clarify the language that permits a relief association to increase its benefit level without municipal ratification, if certain conditions are met.

According to the OSA,¹ the intent of this change is to correct inaccurate statutory references, make the provisions easier to understand and administer, and make sure the requirements continue to match the practice for how benefits are currently being administered.

¹ This topic was discussed at the October 19, 2022, meeting of the working group (see [10/19/2022 Exhibit H](#)).

Under current statute, it is unclear for certain funding scenarios if all conditions must be met for a relief association to increase its benefit level. Under this proposal, a relief association could amend its bylaws to permit a benefit level increase without municipal ratification only if all the conditions are met. The conditions are:

1. the proposed benefit level would not cause the amount of the resulting increase in liabilities to exceed 90% of amount reported as a surplus in the prior year;
2. the proposed benefit level will not cause an increase in the contribution from the affiliated municipality (referred to in statute as the “minimum obligation of the municipality”); and
3. the relief association must be fully funded or have a surplus before implementing the proposed benefit level change and continue to be fully funded or have a surplus immediately after the benefit level is enacted.

Article 2: Modifying Requirements for Involuntary Termination of a Relief Association

Article 2, Section 1: Involuntary dissolution reporting requirement changes

Article 2, section 1, amends Section 424B.22, subdivision 2. Section 424B.22 outlines the requirements that a relief association must follow if the relief association dissolves and terminates its retirement plan. Section 424B.22, subdivision 2, is the “involuntary dissolution” provision, which states that a relief association and the retirement plan administered by the relief association is terminated automatically if one of the following occurs:

- the fire department affiliated with a relief association is dissolved by action of the governing body of the municipality in which the fire department is located or by the governing body of the independent nonprofit firefighting corporation, whichever applies; or
- the fire department affiliated with a relief association has terminated the employment or services of all active members of the relief association.

The involuntary dissolution process is in place to ensure that retirement benefits can still be distributed to firefighters in extreme cases, such as no firefighters remaining in a department or a relief association to administer benefits. Unless a relief association is being involuntarily dissolved, the relief association is required to follow the process for dissolutions under 424B.22.

Normally, when a relief association dissolves, the officers of the relief association must follow several steps. These steps include filing certain statements with the OSA, notifying the Commissioner of Revenue, liquidating the general fund, and settling all legal obligations of the general fund. The reports submitted to the OSA and the Department of Revenue allow staff at each office to verify that the retirement benefits are being distributed to firefighters appropriately and are not being used improperly.

In short, there is work required to wind down a relief association and the affiliated retirement plan responsibly and lawfully. According to the OSA,² some relief associations have viewed the “involuntary dissolution” provision as a way to dissolve the relief association without having to comply with the notice and reporting requirements mentioned above.

Article 2, section 1, requires the board of trustees of a relief association being involuntarily dissolved to comply with the same requirements that normally apply to dissolutions. The proposal gives the State Auditor the authority to waive the requirements if the board of trustees requests such a waiver and provides adequate demonstration that meeting the requirements is not practicable. This authority to waive the requirements gives the State Auditor discretion to determine if the relief association in question is in one of the extreme situations outlined above or if the relief association can meet the requirements but missed the deadline set in statute.

Article 2, Section 2: Clarifying changes to supplemental benefits

Article 2, section 2, amends section 424B.22, subdivision 10, which requires a dissolving relief association to pay a supplemental benefit to each participant who receives a retirement benefit if the participant is at least age 50.

There are some benefit recipients of a dissolving relief association, however, that may not meet the age-50 requirement. Specifically, a participant receiving a disability benefit or a deceased participant’s survivor receiving a survivor benefit may be under age 50. The Department of Revenue raised concerns about the current statutory language, because the language could be interpreted to require a disabled participant to be age 50 to qualify for the supplemental benefit. In the case of survivor benefits, the language could be interpreted to either require 1) the deceased participant to have been at least age 50 for the participant’s survivor to qualify for the supplemental benefit or 2) for the participant’s survivor to be at least age 50 to qualify for the supplemental benefit.

According to the OSA,³ the age-50 requirement was not intended to apply to disability or survivor benefits. Article 2, section 2, makes it clear that the age-50 requirement does not apply to disability or survivor benefits.

Article 3: Modifying Investment Report Requirements

Article 3 amends section 424A.095, subdivision 2, which requires the State Auditor to provide an annual investment report to each relief association that is not fully invested through the State Board of Investments (SBI). The report, known as the “Investment Report Card,” must include the relief association’s average annual rate of return over various periods, a benchmark’s annual rate of return over various periods, and the SBI supplemental investment fund’s annual rate of return over various

² This topic was discussed at the working group meeting on October 4, 2023 (see [10/04/2023 Exhibit F](#)).

³ This topic was discussed at the working group meeting on January 19, 2023 (see [01/19/2023 Exhibit F](#)).

periods. Under current statute, the relief association's board of trustees must certify to the state auditor that the board reviewed the investment report.

Article 3 changes the certification requirements. Instead of requiring the entire board of trustees to certify the Investment Report Card, the change requires one member of the board of trustees to certify the report.

In 2022, the OSA worked to incorporate a question about the Investment Report Card into the OSA's Financial and Investment Reporting Entry (FIRE) Form to meet the certification requirement.⁴ All volunteer fire relief associations are required to fill out the FIRE Form. The question asked if the relief association's board of trustees reviewed the Investment Report Card. The current FIRE Form signature process requires several individuals to sign a certification on the form, including an officer of the board of trustees. However, the full board is not required to certify the FIRE Form. This change would accommodate the current signature process used by the OSA. If the bill is passed, the OSA's use of the FIRE Form to certify the Investment Report Card would comply with section 424A.095, subdivision 2.

Article 4: Modifying Requirements for Investment Earnings on Deferred Pensions

Article 4 amends section 424A.016, subdivision 6. A firefighter who separates from active service and meets the eligibility requirements under 424A.016, subdivision 6, is eligible to receive a deferred service pension benefit. A relief association that administers a defined contribution plan must allocate additional investment performance on the deferred lump-sum service pension during the period of deferral. This investment performance allocation applies to all deferred members on or after January 1, 2021.

There are three methods set in statute (*§424A.016, subd. 6, para. (c)*) for how a relief association can allocate the investment earnings. The default allocation method requires that investment returns be allocated from the date a member separates from active service and membership until the "accounting date" immediately before the date on which the member commences receipt of the deferred service pension.

The OSA's review of defined contribution plan allocation practices found that "accounting date" is not defined in the bylaws of a majority of relief associations.⁵ Additionally, many relief associations prorate investment returns for portions of years that a member is deferred. For example, if a deferred member is paid in July 2023, many relief associations allocate investment returns to the member through June 30, 2023. Unless these partial-year investment return allocations are supported by a bylaw definition of "accounting date," however, the deferred member in this example would be eligible to receive investment return allocations only through December 31, 2022.

⁴ This topic was discussed at the November 10, 2022, meeting of the working group (see [11/10/2022 Exhibit F](#)).

⁵ This topic was discussed at the September 20, 2023, meeting of the working group (see [9/20/2023 Exhibit E](#)).

Article 4 requires investment returns to be allocated to member accounts beginning on the date that the member separates from active service and ending on the last date that the deferred member account is valued before final distribution of the deferred service pension. This change would require departments utilizing the default allocation option to use the most recent valuation of the account, rather than the most recent year-end valuation. Some relief associations value their accounts more frequently than others. For example, departments may choose to value their accounts annually, semi-annually, quarterly, or monthly. This change will allow relief associations to pay out deferred service benefits that are based on a valuation that was conducted closer to the date of distribution.

Article 5: Modifying Definitions for Chapter 424A and Making Conforming Changes

Article 5 redefines “firefighter” and “volunteer firefighter” and deletes many, but not all, of the references to the term “volunteer” in Chapter 424A, which governs volunteer firefighter relief associations.

Article 5, section 5, adds a new definition for “firefighter,” which means one or more of the following types of firefighters, which all have separate definitions: volunteer firefighter (section 6), paid on-call firefighter (section 7), part-time firefighter (section 8), and full-time firefighter or career firefighter (section 9). The definition of “volunteer firefighter” is amended and narrowed.

According to the working group’s discussions during meetings in 2022 and 2023, the working group is seeking the definition changes to reduce confusion among fire departments about the current “volunteer firefighter” definition used in Chapter 424A. Further, the working group aims to bring the definitions used to refer to firefighters in Chapter 424A in alignment with the terms understood and used by fire departments across the state.

According to the working group, each type of firefighter is distinguishable based on three criteria: compensation, availability, and pension benefits. Below is a chart that the working group used to illustrate how fire departments distinguish between different types of firefighters.⁶

Firefighter	Compensation		Availability		Pension	
	Paid per Call or Hour	Salaried	Firefighter’s Choice	Scheduled Hours	Relief Association or SVF Plan	PERA P&F or Coordinated
Volunteer			X		X	
Paid on-Call	X		X		X	
Part-Time	X	X		X		X
Full Time/Career	X	X		X		X

Article 5, section 11, amends section 424A.01, subdivision 1, to add the eligibility requirements for membership in a relief association are removed from the “volunteer firefighter” definition (see section 27, below) in section 424A.001, subdivision 10. As a result, a firefighter will still need to, among other

⁶ Source: OSA working group meeting materials, [1/19/2023 Exhibit B](#)

things, be engaged in providing services and meet minimum standards established by the fire department to be eligible for membership in the relief association.

The bill deletes reference to “volunteer” throughout many sections in Chapter 424A. There are, however, over 50 sections in other chapters throughout Minnesota Statutes that contain the word “volunteer” in the phrase “volunteer firefighter.” The references to “volunteer firefighter” in sections other than Chapter 424A will need to be reviewed, and likely revised, to avoid unintended consequences.

Article 5, section 26, includes an instruction to the Revisor of Statutes to make necessary grammatical changes or changes to sentence structure necessary to preserve the meaning of the text due to the changes under Article 5.

Article 5, section 27, repeals section 424A.01, subdivision 5a, which outlines the eligibility requirements for membership in a relief association. The eligibility requirements from this subdivision are amended into section 424A.01, subdivision 1, in section 11 of this article.

Effective Dates

All sections in Articles 1, 4, and 5; and Article 2, section 1, are effective on January 1, 2025.

Article 2, section 2, is effective for supplemental benefits reimbursed in calendar year 2025 and after.

Article 3, section 1, is effective the day following final enactment.