



## SF 3897 (Gustafson); HF 3703 (Nadeau): Firefighter Relief Associations; Modifying the procedures for terminating a retirement plan

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### Introduction

- Affected Plans:** Retirement plans administered by firefighter relief associations
- Laws Amended:** Minnesota Statutes, section [424B.22](#), subdivisions 5, 7, 8, and 9
- Brief Description:** Modifies the procedures for terminating a retirement plan administered by a firefighter relief association

### Background

Most of the firefighter relief associations affiliated with cities and towns across the state exist to provide retirement benefits to volunteer and paid on-call firefighters. As explained by the Office of the State Auditor:

A fire relief association is a governmental entity that also is a nonprofit organization, that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response. The relief association is a separate entity from the affiliated fire department and is governed by its own board of trustees.

Relief associations are governed by Chapters 424A and 424B and are lightly regulated, with some oversight provided by the State Auditor's office.

**Retirement plan termination process.** If a relief association wants to terminate the retirement plan it administers, the relief association must follow the procedures set forth in Minnesota Statutes, section 424B.22, titled "Relief association dissolution and retirement plan termination." A relief association may want to terminate its retirement plan if the fire department with which it is affiliated wants to merge with another fire department. This appears to be happening more frequently in recent years, so this statute is getting a closer review.

Section 422B.22 requires the board of trustees of a relief association to follow these procedures to terminate its retirement plan:

1. fully vest (to 100% vested) the retirement benefits of all members, to the extent accrued and funded to the plan termination date;
2. if the plan has assets in excess of liabilities (i.e., a “surplus”), consider whether to increase retirement benefits by increasing the benefit level to absorb the surplus;
3. calculate the assets and liabilities of the plan by determining the “present value” of retirement benefits and compile a schedule of firefighters and benefit amounts;
4. invest plan assets in low-risk investments to minimize the risk of investment losses while the plan termination is in process;
5. allocate the surplus by first repaying the municipality for any required contributions made in the last ten years and then allocate any remaining surplus among the firefighters in the same proportion that the present value of the benefit for each firefighter bears to the present value of all firefighter benefits;
6. distribute all retirement benefits plus any surplus in a direct payment to each firefighter or, if elected by the firefighter, in a direct rollover to a firefighter’s IRA or other retirement plan account; and
7. deal with the retirement benefits of firefighters who cannot be found or do not respond to requests from the relief association.

**The Centennial Fire Relief Association.** The Centennial Fire District Relief Association (Centennial Relief Association) is in the process of winding down as a result of the Centennial Fire District’s partnership with the Spring Lake Park/Blaine/ Mounds View Fire Department. In working through the plan termination requirements, the Centennial Relief Association discovered the requirement that retirement benefits be actuarially adjusted to “present value.” This caused concern among the board of trustees and the firefighters because of the unexpected impact on the retirement benefits to be paid to firefighters who had not yet reached age 50, the plan’s normal retirement age. Calculating “present value” also meant that the Centennial Relief Association would need to engage an actuary or other professional to run these calculations.

In a defined benefit relief association, such as the Centennial Relief Association, each firefighter’s retirement benefit is equal to the retirement plan’s “benefit level” multiplied by the firefighter’s years of service. The benefit level is a dollar amount specified in a relief association’s bylaws. For example, if the benefit level is \$7,500 and a firefighter has 10 years of service, the firefighter’s retirement benefit is a lump sum of \$75,000. State law requires distribution of retirement benefits no earlier than age 50, after the firefighter has left active service.

However, when a relief association terminates its retirement plan, the board of trustees must distribute retirement benefits shortly after the termination date, as noted in step #6, above, regardless of whether the firefighter has reached age 50 or is younger than age 50. If a firefighter is younger than age 50, the statute requires the firefighter’s accrued benefit (i.e., the product of years of service times the benefit level) to be reduced to its present value. This present value calculation is required by step #3, above, to

determine each firefighter's retirement benefit and is used in step #5, above, to allocate surplus among the firefighters. The theory behind this present value calculation is that a benefit payable at age 50 is worth less in today's dollars, taking into account inflation and investment earnings. Present value answers the question: "How much money is needed today to have the determined benefit amount at age 50?"

The impact of discounting an amount payable at age 50 to present value was calculated in a similar situation involving the termination of a fire department from the PERA Statewide Volunteer Firefighter Plan. In that case, the fire department's benefit level is \$4,300. The retirement benefit of a firefighter who is 43 years old with 16 years of service was initially calculated as  $16 \times \$4,300$  or \$68,800. Since the firefighter is not yet age 50, the present value of his benefit is \$46,000, a reduction of \$22,800 (from \$68,800 to the present value of \$46,000).

In the case of the Centennial Relief Association, the need to calculate present value came as a surprise to firefighters. What made this even more troubling is the corresponding allocation of surplus, which is required to be allocated on the basis of the present value of each firefighter's benefit. This means that the retirement benefits for firefighters younger than age 50, already reduced by the present value calculation, will also receive a proportionately smaller allocation of the surplus, while retirement benefits for firefighters at or older than age 50 are not reduced by the present value calculation and accordingly receive a larger allocation of the surplus.

**Federal law requirements.** Actuarial best practice and actuarial standards would require that a benefit payable at age 50 that is paid at an earlier age be discounted to present value if the goal is to pay a benefit that is actuarially equivalent to the age 50 benefit. Actuarial standards, however, are not legal requirements. If federal law does not require that accrued benefits be discounted to present value, state law can be amended to eliminate such a requirement.

Based on our research, we concluded that federal law does not dictate that governmental plans, which include relief association retirement plans, comply with actuarial standards. LCPR staff researched this question and the following issues:

- whether there is any federal law or regulation that would require the present value calculation when distributing benefits on plan termination or in allocating surplus in the case of a governmental plan; and
- whether federal law would conflict with a state law that provides more economic value to different categories of employees, such as where younger firefighters are paid a retirement benefit of greater economic value than the retirement benefit paid to firefighters aged 50 or older.

We determined that governmental plans need not discount accrued benefits to their actuarial equivalent present value, upon plan termination, since these plans are not subject to so-called anti-cutback requirements that limit plan amendments that might be viewed as reducing accrued benefits and are not subject to most requirements as to how accrued benefits must be calculated. We were not able to find anything in federal law that directs how governmental plans must allocate surplus assets upon plan termination. We concluded that applicable federal law does not require recalculating

retirement benefits to determine their present value either in distributing those benefits on plan termination or in allocating surplus assets.

## Section- by- Section Summary

**Section 1** revises section 424B.22, subdivision 5, as follows:

- Lines 1.10 and 1.13: references to “present value” are deleted. When the board of trustees determines each firefighter’s benefit, the board will not be required to determine the present value of the benefits. ***The language in subdivision 5, as revised by the bill, will require the board of trustees to determine “each participant’s accrued benefit.” This will allow the board to calculate the present value of each accrued benefit, if it determines that is the appropriate method for calculating accrued benefits, but does not require that the present value of each accrued benefit be calculated and used in determining the accrued benefit of each firefighter.***
- Line 2.6 and 2.7: the requirement that the board of trustees take into account the earliest date the retirement benefit would have been payable is deleted. This eliminates the need to report on information that is needed only to compute present value and is not relevant if firefighters will be paid a benefit that is simply benefit level times years of service.
- Changes in other lines clean up language and remove duplicative references to “pension,” since “accrued benefit” or “benefit” encompasses “pensions.”

**Section 2** revises section 424B.22, subdivision 7, as follows:

- Lines 2.15 and 2.16: language that defines “surplus” is inserted.
- Lines 2.32 and 2.33: references to “present value” in the provision describing how surplus is to be allocated are deleted. Any surplus will be allocated in the ratio of each firefighter’s accrued benefit to the total of all firefighters’ accrued benefit. ***As noted above in the emphasized text, this language as revised will still allow allocation on the basis of present value, but will not require it.***
- Lines 3.3 to 3.5: a sentence is added to address how a relief association should handle allocating surplus when the retirement benefit is a monthly pension or annuity. Relief associations have the option to provide in their bylaws how benefits will be distributed: in a lump sum, in a monthly pension, or in either method, at the election of the member. Since the allocation of surplus is based on lump sum values, the new sentence states that when the relief association pays monthly pensions, surplus is to be allocated based on the lump sum present value of the monthly pension.

**Section 3** revises section 424B.22, subdivision 8, as follows:

- Lines 4.1 to 4.4: clarify the requirement that the board of trustees must offer to pay lump sums either in a direct payment or as a direct rollover.

- Changes in other lines are to correct grammar or clarify language.

**Section 4** revises section 424B.22, subdivision 9, as follows:

- Lines 4.11 to 4.22: delete unnecessary definitions for “retirement benefit” and “individual retirement account.”
- Lines 5.2 to 5.18: rewrites the paragraph to take into account “nonresponsive” participants in addition to missing participants. Upon plan termination, all assets must be distributed. If a firefighter cannot be located or will not respond to requests to elect a direct payment or rollover or, in the case of monthly pensions, a lump sum or annuity, this paragraph directs the board of trustees to either transfer the benefit to an IRA in the name of the participant or to escheat the benefit to the state.
- Lines 5.19 to 5.22: provides guidance on how to handle a monthly pension when a participant is missing or nonresponsive.

**Section 5** is the effective date. The bill is effective the day following final enactment.