

Attachment A

Background Information on Volunteer Firefighter Relief Associations

A. In General

In Minnesota, volunteer firefighters typically have pension coverage as part of their compensation package and that pension coverage is provided by the various local volunteer firefighter relief associations located in the state. These volunteer firefighter relief associations are creatures of state law and are subject to various statutory regulations.

B. Legal Status and Structure

Under Minnesota Statutes, Section 424A.001, Subdivision 4, volunteer firefighter relief associations are required to be nonprofit corporations organized under Minnesota Statutes, Chapter 317A, the Minnesota Nonprofit Corporation Act. Minnesota Statutes, Chapter 317A, applies to all Minnesota nonprofit corporations and contains numerous requirements on the manner of incorporation, general powers, scope of bylaws, function of the board and officers, rights and obligations of members, processes of consolidation, merger, or dissolution, and corporate registration. In several areas, Minnesota Statutes, Chapter 424A, contains additional regulation or conflicting regulation, and the more particularized regulatory provisions of that chapter apply. For instance, Minnesota Statutes, Section 317A.203, provides for a board of directors of at least three individuals, but Minnesota Statutes, Section 424A.04, Subdivision 1, provides for a board of trustees generally comprised of nine members. Also, Minnesota Statutes, Sections 317A.701 through 317A.791, generally governs the dissolution of a nonprofit corporation, but Minnesota Statutes, Section 424A.02, Subdivision 11, specifically governs the dissolution of a volunteer firefighter relief association.

A volunteer firefighter relief association under Minnesota Statutes, Chapter 424A, can exist in one of three ways:

- 1. Separate Corporation. As a separate nonprofit corporation directly associated with a municipal fire department established by municipal ordinance;
- 2. Division of Another Relief Association. As a volunteer division or account of a part paid and part volunteer firefighter relief association directly associated with a municipal fire department established by municipal ordinance; or
- 3. Subsidiary Corporation. As a separate nonprofit corporation subsidiary to an independent nonprofit firefighting corporation also organized under Minnesota Statutes, Chapter 317A, and operating exclusively for firefighting purposes.

A volunteer firefighter relief association, under Minnesota Statutes, Section 424A.001, Subdivision 4, has the status of a governmental entity, receiving public money, and providing benefit coverage for individuals providing the governmental services of firefighting and emergency first response.

C. Volunteer Firefighter Relief Association Governance

Minnesota Statutes, Section 424A.04, Subdivision 1, requires either a nine-member board of trustees or a ten-member board of trustees. The board composition differs depending on whether the relief association is associated with a municipal fire department or is subsidiary to an independent nonprofit firefighting corporation, as follows:

Relief Association Associated With Municipal Fire Department	Relief Association Subsidiary to Independent Nonprofit Firefighting Corporation
Six trustees elected from the relief association membership (one can be a retiree receiving a monthly benefit, at relief association's discretion).	Six trustees elected from the relief association membership (one can be retiree receiving a monthly benefit, at relief association's discretion).
Three trustees from municipal officials (the mayor, clerk, the clerk-treasurer or finance director, and the municipal fire chief).	Three trustees from municipal officials (if one municipality served, three officials designated by municipality; if two municipalities served, two officials from largest municipality and one official from other municipality, designated by municipalities; if three or more municipalities served, one official from each of the three largest municipalities, designated by municipalities).
	One trustee, who is the fire chief of the independent nonprofit firefighting corporation.

Ex-officio trustees have the same rights and duties as elected trustees, except that ex-officio trustees may not serve as an officer of the board of trustees. Elected trustees have a term length as specified in the relief association bylaws, but it may not be longer than three years and it must be staggered if it is more than one year in length.

Minnesota Statutes, Section 424A.04, Subdivision 1, provides for at least three officers of a volunteer firefighter relief association. The three officers must include a president, a secretary, and a treasurer. The officers must be drawn from the relief association board of trustees, from the elected board membership. The officers can be elected by the board of trustees or by the relief association membership as the bylaws specify. No person is allowed to occupy more than one officer position at one time. Officers have a term length as specified in the relief association bylaws, but the term may not be longer than three years.

D. Volunteer Firefighter Relief Association Structure

Minnesota Statutes, Section 424A.05, requires that every relief association establish and maintain a special fund. The special fund is the fund from which volunteer firefighter pension benefits are payable and into which state aid, municipal contributions, and other public money is deposited. Beyond fire state aid and municipal tax revenue, the special fund also must receive all money or property donated by any person if so designated. Investment income on special fund assets also must be deposited in the special fund. Beyond the payment of service pensions, the special fund can also be disbursed for disability benefits, survivor benefits, funeral benefits, Minnesota State Fire Department Association and State Volunteer Firefighters' Benefit Association dues, and authorized administrative expenses. All benefit payments are required to be in accord with the requirements of law and the relief association bylaws.

The relief association treasurer is required to be the custodian of the special fund and recipient on behalf of the special fund of its revenue. The treasurer is required to maintain records documenting any transaction affecting the assets or revenues of the special fund. The records of the treasurer, as well as the relief association bylaws, are public and open for public inspection.

The assets of the special fund must be invested in authorized securities, which are either a limited list of securities for small relief associations, or a separate codified list which represents the pre-1994 list of authorized investment securities for the State Board of Investment for larger relief associations.

Relief associations under Minnesota Statutes, Section 69.775, also have authority to invest in mutual funds that are restricted to the same authorized securities, or to invest in the Minnesota Supplemental Investment Fund administered by the State Board of Investment.

Minnesota Statutes, Section 424A.06, allows a volunteer firefighter relief association to establish and maintain a general fund. The general fund is the fund into which non-tax or non-public funds are deposited and from which moneys can be expended as the relief association sees fit, as governed by its bylaws. The general fund traditionally is supported by member dues and by revenues raised from community fundraising events.

E. Volunteer Firefighter Relief Association Membership Inclusions and Exclusions

State law is largely silent on the question of which persons are required to be or may be included in the membership of or coverage by a volunteer firefighter relief association. Except for a definition of the term "volunteer firefighter" in Minnesota Statutes, Section 353.01, Subdivision 36, existing for purposes of providing an exclusion of volunteer firefighters from the Public Employees Retirement Association or Public Employees Police and Fire (PERA-P&F) coverage, the term "volunteer firefighter" is not defined in state law. Under Minnesota Statutes, Chapters 317A and 424A, each volunteer firefighter relief association sets its own qualifications or requirements for membership, subject to certain statutory membership exclusions. The determination of volunteer firefighter status occurs in conjunction with the municipal fire department or the independent nonprofit firefighting corporation membership requirements, since Minnesota Statutes, Section 424A.02, Subdivision 1, sets certain benefit qualifications in terms of active membership with the fire department in addition to relief association membership. Volunteer firefighters are not always individuals who donate their time for free to assist in fire suppression activities. Many volunteer firefighters are reimbursed for their out-of-pocket expenses, or are paid a minimum fire run amount, or are paid an hourly rate when engaged in fire department duties. Some volunteer firefighter relief associations cover salaried firefighters who also have PERA-P&F coverage. Fire department duties can include activities beyond strict fire suppression activities, including fire equipment maintenance, firefighters training, fire department administration, fire prevention, emergency first response services. When the fire department is the sponsoring entity for ambulance services, the activities can include paramedic or other ambulance and emergency medical duties. Because service pensions from a volunteer firefighters relief association are a function in large measure of the amount of fire state aid per relief association member, which is an amount determined independent of volunteer firefighter relief

association requirements, there is an economic incentive for a relief association to be selective or restrained in fashioning the local definition or classification of a volunteer firefighter.

Minnesota Statutes, Section 424A.01, sets forth several exclusions from volunteer firefighter relief association membership or coverage. Minnesota Statutes, Section 424A.01, Subdivision 1, prohibits municipalities or independent nonprofit firefighting corporations from employing minors as volunteer firefighters, hence also excluding minors from volunteer firefighter relief association membership. Minnesota Statutes, Section 424A.01, Subdivision 2, excludes substitute volunteer firefighters from volunteer firefighter relief association membership. Minnesota Statutes, Section 424A.01, Subdivision 3, provides that members of the fire department who also decline to be members of the volunteer firefighter relief association are ineligible for volunteer firefighter relief association benefit coverage. Minnesota Statutes, Section 424A.01, Subdivision 4, allows a volunteer firefighter relief association board of trustees to exclude applicants for membership in the volunteer firefighter relief association from membership if they have a pre-existing physical or mental impairment or condition that would constitute a predictable and unwarranted risk of ancillary (disability or death) benefit liability, and if the relief association makes that determination based on medical evidence.

F. Benefit Coverage Provided By Volunteer Firefighter Relief Associations

1. In General. The state law regulating the benefit coverage provided to volunteer firefighters by volunteer firefighter relief associations from the relief association special fund is primarily Minnesota Statutes, Sections 424A.02, 424A.03, and 424A.10. Minnesota Statutes, Chapter 424A, was enacted in 1979, which was the last time the Legislature undertook a general review and analysis of volunteer fire benefit coverage.

Unlike most public employee pension coverage, where state law specifies all or most aspects of the benefit plan, the statutory regulation of volunteer firefighter relief associations largely consists of specifying certain minimum eligibility requirements and certain benefit maximums, with the actual benefit plan assembled in the articles of incorporation or the bylaws of the particular volunteer firefighter relief association. The primary benefit coverage provided by a volunteer firefighter relief association is the service pension coverage, and most minimum eligibility requirements and benefit maximums relate to the service pension coverage.

2. Service Pension Eligibility Requirements. Minnesota Statutes, Section 424A.02, Subdivision 1, authorizes a volunteer firefighter relief association to provide a service pension to a member of the relief association if certain conditions are met by the volunteer firefighter. The volunteer firefighter must meet the following conditions:
 - i. Terminate Active Service. The person must separate from active service as a firefighter with the fire department, defined as the cessation of the performance of fire suppression duties and the cessation of the supervision of fire suppression activities.
 - ii. Attain at Least Age 50. The person must reach at least age 50.
 - iii. Have Credit For At Least Five Years Fire Department Service. The person must have credit for at least five years of service as an active member of the fire department with which the relief association is associated.
 - iv. Have Credit For At Least Five Years Relief Association Membership. The person must have credit for at least five years of active membership in the relief association before separating from service (open to modification for a new relief association covering an existing volunteer fire department, with firefighters having prior service).
 - v. Compliance With Additional Conditions. The person must comply with any additional age, service or membership conditions prescribed in the relief association bylaws.
3. Partial Vesting With Less Than 20 Years Service Credit. Volunteer firefighter relief associations have traditionally required 20 years of service for a person to become eligible to receive a service pension. Between 1979 and 1989, ten years of service were required as the minimum service requirement for entitlement to a partial service pension. In 1989, the ten years service requirement was reduced to five years. Under state law, the maximum service pension payable with less than 20 years of service is limited to a portion of the service pension earned or accrued. The applicable statutory provision is Minnesota Statutes, Section 424A.02, Subdivision 2. The

percentage of the accrued or earned benefit must be set forth in the articles of incorporation or the bylaws of the relief association, but cannot exceed the following:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

4. Flexible Service Pension Maximums. Minnesota Statutes, Section 424A.02, Subdivision 3, establishes a maximum service pension payable to a retiring former volunteer firefighter. Before 1979, the predecessor provision (Minnesota Statutes 1978, Section 69.06) set a single dollar amount maximum on volunteer fire service pensions. With the enactment of Minnesota Statutes, Section 424A.02, Subdivision 3, the service pension maximum has been a sliding scale depending on the financial resources of the relief association on a per firefighter basis. If a volunteer firefighter relief association has a substantial portion of the funding required to support a given level of service pension under the 1971 Volunteer Firefighter Relief Association Guidelines Act, Minnesota Statutes, Sections 69.771 through 69.776, the relief association is allowed to provide in its articles of incorporation or bylaws that service pension level.

The service pension can be a monthly benefit service pension (a specified dollar level per month per year of service credit, payable for life) or a lump sum service pension (a specified dollar level per year of service credit, payable in a lump sum or in a number of installment payments). If a relief association provides both a monthly benefit service pension and a lump sum service pension as an alternative, the amount of each type of service pension must comply with the flexible service pension maximum. The funding amount on which the flexible service pension maximum scale is based is the amount of funding available per firefighter, computed on a three-year average. The funding used in the computation is the amount of fire state aid received, the amount of any municipal funding provided, and one-tenth of the amount of any funding surplus (assets in excess of actuarial accrued liability).

In 2001, the number of relief associations providing each type of service pension was as follows:

Lump sum only	583
Monthly benefit only	5
Lump sum or monthly benefit	17
Defined contributions only	<u>87</u>
Total	692

5. Defined Contribution Lump Sum Service Pension Coverage. Minnesota Statutes, Section 424A.02, Subdivision 4, allows a volunteer firefighter relief association to provide a defined contribution (or split-the-pie) service pension in lieu of a defined benefit monthly benefit or lump sum service pension. The defined contribution service pension coverage necessitates that the volunteer firefighter relief association establish a separate account for each member, to which an equal share of any fire state aid, municipal contributions or turnover gain (forfeited amounts upon early terminations under Minnesota Statutes, Section 424A.02, Subdivision 2) must be credited to each individual account. Investment income based on the account balance also must be credited to each individual account.
6. Monthly Benefit Defined Benefit Plan Service Credit Maximum. For volunteer firefighter relief associations that provide monthly benefit service pensions, Minnesota Statutes, Section 424A.02, Subdivision 5, imposes a 30-year service credit maximum.

7. Benefit Calculation Uniformity. Minnesota Statutes, Section 424A.02, Subdivision 6, provides that the method of calculating service pensions must be applied uniformly for all years of active service. It also provides that credit must be given for all years of service other than those covered by the 30-year service credit maximum and the partial early vesting provisions. The provision also prohibits the payment of a service pension to a person who remains an active firefighter, prohibits the payment of other special fund benefits to a person receiving a service pension, exempts volunteer firefighter relief association pensions and benefits from garnishment, judgement, execution or legal process other than marriage dissolution or child support obligations, and prohibits the assignment of any service pension or benefit from a volunteer firefighter relief association.
8. Deferred Service Pensions. For a volunteer firefighter who has completed the length of service credit required for vesting, has at least five years of relief association active membership, but separates from active volunteer firefighter service and volunteer firefighter relief association membership before age 50, Minnesota Statutes, Section 424A.02, Subdivision 7, provides for a deferred service pension payable when the former firefighter reaches at least age 50. The service pension is calculated based on the law in effect when active service terminated, but a lump sum service pension may be credited with actual earned interest over the deferral period, but not more than five percent.
9. Installment Payments for Lump Sum Service Pensions. Volunteer firefighter relief associations that pay lump sum service pensions are authorized by Minnesota Statutes, Section 424A.02, Subdivision 8, to pay the lump sum service pension in installments. No limit in the number of installments is specified. The installments are to have the same present value as the lump sum service pension, based on a five percent interest assumption.
10. Conversion of Lump Sum Service Pensions Into Annuities Through Single Premium Insurance Annuity Purchase. Minnesota Statutes, Section 424A.02, Subdivision 8a, allows a volunteer firefighter relief association that pays a lump sum service pension to purchase a single premium insurance annuity for the retiring volunteer firefighter from an insurance company approved to do this type of business by the state Commerce Commissioner.
11. Ancillary Benefit Limits. Minnesota Statutes, Section 424A.02, Subdivision 9, places limits on ancillary retirement benefit coverage. Ancillary benefits are those benefits provided by a volunteer firefighter relief association other than the service pension, such as disability benefits, death benefits, or survivor benefits. The limitations are needed to protect the financial solvency regulation of volunteer firefighter relief associations, which is built around determining the accrued liability and financial requirements for the level of the service pension coverage provided by the volunteer firefighter relief association. The limitations are:
 - i. No Post-Retirement Benefit Beyond the Lump Sum Service Pension. Volunteer firefighter relief associations that provide lump sum service pensions are prohibited from paying any additional benefit to a retired firefighter or on behalf of a retired firefighter once payment of the service pension commences; and
 - ii. Maximum Ancillary Benefit Available. All volunteer firefighter relief associations are limited in the payment of pre-retirement and post-retirement ancillary benefits to the amount of the accrued service pension of the volunteer firefighter, except that the survivor benefit payable on behalf of a deceased short service firefighter may be based on a five years of service accrued benefit if that produces a larger accrued service pension amount.
12. Post-Retirement Increases. A volunteer firefighter relief association paying a monthly service pension may, if it chooses, provide a post-retirement increase to service pension and benefit recipients upon providing a benefit increase to active firefighters, under Minnesota Statutes, Section 424A.02, Subdivision 9.
13. Municipal Approval of Benefit Changes; State Filing Requirements. Minnesota Statutes, Section 424A.02, Subdivision 10, requires municipal approval of any benefit changes or amendments to the relief association articles of incorporation or bylaws impacting on benefits unless the volunteer firefighter relief association has authority under the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act to implement the benefit increase without local approval. The benefit change approval request must be accompanied by an estimate of the actuarial impact of the benefit change. Upon making a benefit change, the volunteer firefighter relief association

must file a copy of the revised articles of incorporation or bylaws with the Commissioner of Commerce in order to retain eligibility for fire state aid.

14. Volunteer Firefighter Relief Association Dissolution and Consolidation. Minnesota Statutes, Section 424A.02, Subdivisions 11 and 12, provide for the distribution of volunteer firefighter relief association assets if the associated fire department is disbanded and the relief association is dissolved and permit the transfer of service credit to a new volunteer firefighter relief association if that relief association covers essentially the same geographical area as the disbanded fire department.
15. Combined Volunteer Firefighter Relief Association Service Pensions. If the volunteer firefighter relief association elects to do so, the relief association under Minnesota Statutes, Section 424A.02, Subdivision 13, can recognize total service rendered for any other participating volunteer firefighter relief association in meeting its vesting requirement and can pay a prorated service pension based on the accrual service rendered in that relief association.
16. Supplemental Benefit For Lump Sum Volunteer Firefighter Relief Associations. Minnesota Statutes, Section 424A.10, requires a volunteer firefighter relief association that pays a lump sum service pension to pay a supplemental benefit from the relief association special fund to retiring firefighters who receive a lump sum service pension. The supplemental benefit is an amount equal to ten percent of the lump sum service pension paid, up to \$1,000. The supplemental benefit is reimbursable to volunteer firefighter relief associations annually, in March, from the state general fund by the Commissioner of Revenue, for the volunteer firefighter relief associations that apply for the reimbursement in the preceding February. The supplemental benefit was intended to offset the impact of a federal Internal Revenue Code ten percent income tax surcharge on pre-age 59-1/2 non-annuity pension distributions. The supplemental benefit is in lieu of a state income tax exclusion for lump sum retirement benefit distributions.

G. Volunteer Fire Funding Requirements

1. Lump Sum Plans. If a relief association provides only lump sum benefits, the contribution requirements are determined by the association using a procedure specified in Section 69.772. Using a table included in that section, the relief association determines the pension plan's liability, given the length of service of the members and the benefit level of the plan. This is compared to the liability computed for the prior year, and the difference is the normal cost, the cost of providing the plan's benefits to its member for another year. To this normal cost is added the plan's expected administrative expenses. Finally, the amortization requirement, if any, is determined. This is determined by comparing the expected market value at year-end with the accrued liability. If the assets are less than the accrued liability, the difference is the unfunded liability. Under law, the unfunded liability is amortized by adding one-tenth of the unfunded liability to sum of the normal cost plus expenses. The amount thus determined is certified to the municipality, which is responsible for covering the amount with the assistance of state aid.
2. Monthly Plans. If a volunteer fire plan provides monthly benefits, or provides monthly benefits as an option to a lump sum benefit, the contribution requirements must be determined through an actuarial valuation provided by an actuary. The pension fund must obtain an actuarial valuation of the fund at least every four years. The contribution requirements are the sum of the normal cost, administrative expenses, and amortization requirements as determined by the valuation. If a relief association which provides its members with a monthly benefit or choice between a monthly benefit and a lump sum benefit, seeks to increase its benefits, it must obtain a new actuarial valuation reflecting the proposed change or at least an actuarial note indicating the impact of the proposed change on plan normal costs and amortization requirements, if any. This provides the necessary information to the municipality on the plan's revised contribution requirements. A relief association must seek municipal approval for a benefit increase if it has any unfunded liability or if the municipality is required to pay any contribution not covered by state aid (Section 69.773, subdivisions 3 and 6). If a relief association is not required to seek municipal approval (because it is more than fully funded and no local contribution will be required), it may increase its pension benefit without municipal approval, providing that the change maintains consistency with the flexible service pension maximum schedule requirements and providing that the fund will continue to have some assets in excess of full funding after the benefit increase (specifically, the liability increase may not exceed 90 percent of the surplus above full funding). However, if a relief association increases its benefit without municipal approval and later a municipal contribution is required, benefit levels must be rolled back to the level last approved by the municipality.