



TO: Members of the Legislative Commission on Pensions and Retirement
 FROM: Lawrence A. Martin, Executive Director *LAM*
 RE: H.F. xxxx; S.F. 425 (Betzold): Volunteer Firefighter Relief Associations; State Supplemental Survivor Benefit Reimbursement Revision
 DATE: March 1, 2007

Summary of H.F. xxxx; S.F. 425 (Betzold)

H.F. xxxx; S.F. 425 (Betzold) amends Minnesota Statutes, Section 424A.10, Subdivision 3, the provision of volunteer firefighter relief association law that requires the Department of Revenue to reimburse relief associations for supplemental lump sum benefits annually by March 15, by including the 2006 addition of a deceased active or deferred volunteer firefighter survivor supplemental benefit in eligibility for the state reimbursement.

Background Information on Volunteer Firefighter Relief Association Supplemental Benefits

- Establishment. In 1988 (Laws 1988, Chapter 719, Article 19, Section 22), as part of that legislative session's tax bill, the Legislature mandated that volunteer firefighter relief associations that pay a lump sum service pension also pay a supplemental benefit equal to ten percent of the amount of the lump sum service pension payable to retiring members, to a maximum of \$1,000 per lump sum service pension. The provision is coded as Minnesota Statutes, Section 424A.10. The supplemental benefit was intended to reimburse retiring volunteer firefighters for a change in Minnesota tax law, enacted in the late 1980s, which caused Minnesota public pensions to be taxable under Minnesota law. Given the relatively modest level of volunteer fire pensions, at least as of the late 1980s, the 1988 enactment of the volunteer fire lump sum supplemental benefit may have been intended to offset the impact of that new Minnesota taxation, so that the new tax treatment did not discourage individuals from providing volunteer fire services. In 2006 (Laws 2006, Chapter 271, Article 13, Section 5), the entitlement for a supplemental benefit was expanded to include survivors of deceased active or deferred volunteer firefighters and the amount of the supplemental benefit for survivors was doubled compared to the supplemental benefit payable to a retiring volunteer firefighter.
- Source of the Volunteer Fire Lump Sum Supplemental Benefit State Reimbursement. The volunteer fire lump sum supplemental benefit state reimbursement is payable from a state General Fund appropriation to the Department of Revenue.
- Qualification Requirements for Receipt of the Volunteer Fire Lump Sum Supplemental Benefit State Reimbursement. The supplemental benefit is reimbursable by the state if the volunteer firefighter relief association that paid the supplemental benefit applies with the Commissioner of Revenue by the subsequent February 15, with the reimbursement paid on March 15 from a state General Fund appropriation for that purpose.
- Amount of the Volunteer Fire Lump Sum Supplement Benefit State Reimbursement. The total amount expended by the Department of Revenue in reimbursing volunteer fire lump sum supplemental benefits is as follows:

| Fiscal Year | Number of Payments | Supplemental Benefit Reimbursement Appropriation | Fiscal Year | Number of Payments | Supplemental Benefit Reimbursement Appropriation |
|-------------|--------------------|--|-------------|--------------------|--|
| 1989 | 169 | \$248,877.98 | 1998 | 277 | \$365,561.84 |
| 1990 | 253 | \$355,340.44 | 1999 | 285 | \$411,695.58 |
| 1991 | 259 | \$357,604.39 | 2000 | 287 | \$420,388.00 |
| 1992 | 268 | \$394,324.32 | 2001 | 275 | \$439,660.80 |
| 1993 | 264 | \$384,550.40 | 2002 | 297 | \$456,594.53 |
| 1994 | 248 | \$330,629.36 | 2003 | 313 | \$480,665.19 |
| 1995 | 263 | \$366,189.08 | 2004 | 351 | \$534,653.75 |
| 1996 | 261 | \$414,799.08 | 2005 | 336 | \$521,665.15 |
| 1997 | 262 | \$371,903.61 | 2006 | 328 | \$485,738.34 |



The amounts received by volunteer firefighter relief associations and members in recent years have varied, as follows:

| Year | % of all VFRAAs receiving aid | % Receiving Less Than \$1,000 Maximum Amount | |
|------|-------------------------------|--|--|
| | | % of all VFRAAs | % of all VFRAAs receiving supplemental aid |
| 2001 | 43.4% | 19.0% | 43.8% |
| 2002 | 45.7 | 18.4 | 40.3 |
| 2003 | 49.1 | 17.8 | 36.2 |
| 2004 | 51.5 | N/A | N/A |
| 2005 | 48.3 | N/A | N/A |

5. Permissible Uses for Reimbursement Amounts. The state reimbursement of volunteer fire lump sum supplemental benefits are required to be deposited into the special fund of the applicable volunteer firefighter relief association and may be subsequently expended for any lawful purpose for the special fund of the relief association.

Rationale for the Proposed Legislation

H.F. xxxx; S.F. 425 (Betzold) attempts to correct an omission in the 2006 Omnibus Retirement Bill that was identified by the Department of Revenue in answering volunteer firefighter relief association questions about Laws 2006, Chapter 271, Article 13, Section 5, during the summer of 2006. The 2006 legislation expanded the persons eligible to receive a lump sum supplemental benefit to include survivors of active or deferred volunteer firefighters and increased the amount of the supplemental benefit for those survivors to twice the amount payable to volunteer firefighters. The 2006 legislation, however, failed to include any reference to survivors in the state reimbursement provision. While the Department of Revenue appears likely to implement the 2006 changes consistent with the apparent legislative intent, reimbursing the expanded/increased supplemental benefit amounts, it would be appropriate for the legislation to be corrected. The proposed legislation makes the correction.

Discussion and Analysis

H.F. xxxx; S.F. 425 (Betzold) amends 2006 pension legislation to clarify that the lump sum volunteer firefighter relief association supplemental benefits that are reimbursable by the state Department of Revenue include the 2006 survivor supplemental benefits, retroactive to the effective date of the 2006 pension legislation.

The proposed legislation gives rise to several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Appropriateness of the Proposed Correction. The policy issue is the appropriateness of the draft proposed legislation and whether or not it represents the legislative intent in 2006. The proposed legislation is premised on the perceived need to correct a drafting error made in 2006. In order to expand eligibility for a supplemental benefit to survivors of active firefighters and of deferred firefighters and to increase the supplemental benefit for survivors, it was necessary in 2006 to create a new definition of a class of individuals entitled to a supplemental benefit, but that new defined term was not incorporated into the supplemental benefit reimbursement provision. The proposed legislation adds that additional 2006 defined term to the reimbursement provision. If the expansion of supplemental benefit entitlement and if the survivor supplemental benefit increase was intended to be an unfunded mandate on volunteer firefighter relief associations rather than a state-funded mandate, the proposed correction would not be consistent with 2006 legislative intent.
2. Appropriateness of Actual Trebling of Volunteer Firefighter Survivor Benefit Supplement. The policy issue is the appropriateness of an actual threefold increase in the supplemental benefit payable to volunteer firefighter lump sum survivor benefit recipients rather than the doubled survivor benefit supplement that seemed to be proposed by 2006 S.F. 2831 (Tomassoni); 2006 H.F. 2784 (Rukavina), the original source bill for the 2006 legislation. The original volunteer firefighter relief association lump sum supplemental benefit provision was part of the tax bill in 1988 and was implemented without review or input by the Legislative Commission on Pensions and Retirement. Although the original language appears to restrict the supplemental benefit to volunteer firefighters receiving service pensions, by virtue of the “qualified recipient” definition in 1988-1989, the Department of Revenue interpreted the provision as permitting the reimbursement of supplemental benefits paid to

volunteer firefighter relief association survivors, based on ten percent of the benefit up to \$1,000. The 1988-1989 interpretation of the Revenue Department was unknown to the Commission staff when the initial version of the bill that became 2006 S.F. 2831 (Tomassoni); 2006 H.F. 2784 (Rukavina) was drafted, and the Commission staff analyzed the 2006 bill as if survivors had been previously ineligible for a supplemental benefit and as if the supplemental benefit payable to volunteer firefighter relief association survivors would be 20 percent of the survivor benefit up to \$2,000. Since the Department of Revenue was already providing survivors with a ten percent supplemental benefit, up to \$1,000, it is interpreting the 2006 legislation as additive, now providing survivors with a supplemental benefit of 30 percent of the original benefit, up to \$3,000. Since the Commission staff misunderstood the factual basis underlying the 2006 supplemental benefit expansion and increase and the Commission staff shaped its analysis based on that misunderstanding, the Commission may have been similarly confused on the actual impact of the proposed legislation it recommended in 2006. If a trebling of the supplemental benefit payable to survivors is not what the Commission had intended and if a survivor benefit supplement that is three times greater than the supplemental benefit that is payable to a retiring volunteer firefighter or to a disabled volunteer firefighter is deemed inappropriate, this may be the opportunity for the Commission to correct the provision to match a less expansive intent. Amendment S0425-1A revises the volunteer firefighter supplemental benefit provision to result in a survivor benefit supplement after July 1, 2007, that is only double that of the retiring firefighter supplemental benefit. The commission should provide members of the volunteer firefighter community an opportunity to address the question of the appropriate survivor supplemental benefit reimbursement amount.

3. Appropriateness of Retention of \$1,000 Cap for Most Supplemental Benefits. The policy issue is whether or not the current \$1,000 uppermost maximum on most volunteer firefighter relief association lump sum benefits, not increased since the initial passage of the provision in 1988, should be retained or reset. The ten percent supplemental benefit, with a \$1,000 maximum, was initially intended to offset the impact of a 1980s Minnesota income tax change and occurred at a time when lump sum volunteer firefighter relief associations paid smaller service pensions. Since it is now 20 years since the tax changes occurred, the adverse perception of and contrary reaction by the volunteer fire community that undoubtedly prompted the Tax Committees to formulate the supplemental benefit provisions now has passed, diminishing or eliminating the pressure for any particular-sized supplemental benefit. On the other hand, the growth in the size of retirement benefits (40.9 percent of lump sum volunteer firefighter relief associations paid a service pension under \$300 per year of service in 1988; only 7.9 percent of lump sum volunteer firefighter relief associations paid a service pension under \$300 per year of service in 2002) means that the current \$1,000 limit on the supplemental benefit is less valuable to volunteer firefighters now than it was when it was enacted. The cost of living, as measured by the federal Consumer Price Index (Urban Wage Earners and Clerical Workers, All Items) from May 1988 to October 2006 has increased by 69.54 percent. If the limit on the supplemental benefit is intended to replicate past inflationary fixes periodically and if this is the appropriate year for making that change, the limit would be reset to \$1,695. Amendment S0425-2A provides for that increase. An increase in the uppermost supplemental benefit amount would, however, require an increase in the appropriation to the Department of Revenue if the state intends to fully reimburse the volunteer firefighter relief associations for an increased supplemental benefit limit. Currently, the Department of Revenue's actual expenditures for the supplemental benefits annually frequently exceed the appropriation to the Department of Revenue. For the most recent period for which full information is available, 1997 through 2002, the actual expenditure for supplemental benefits have exceeded the initial biennial appropriation in four of six years, as follows:

| Year | Supplemental Benefit Reimbursement Appropriation | Supplemental Benefit Reimbursement Expenditure |
|------|--|--|
| 1997 | \$378,000 | \$371,904 |
| 1998 | \$375,000 | \$365,562 |
| 1999 | \$370,000 | \$411,696 |
| 2000 | \$378,000 | \$420,388 |
| 2001 | \$420,000 | \$439,661 |
| 2002 | \$420,000 | \$456,595 |

