



H.F. 3938

(Murphy, M., by request)

S.F. XXXX

(_____)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Volunteer Firefighter Relief Associations
Relevant Provisions of Law: Portions of Minnesota Statutes, Chapters 6, 69, 356, and 424A
General Nature of Proposal: Recommendations of the Volunteer Fire Working Group sponsored by the State Auditor
Date of Summary: March 27, 2008

Specific Proposed Changes

The bill:

- (a) requires public accountants to report volunteer firefighter relief association misconduct;
- (b) authorizes security brokers to hold pension plan assets directly;
- (c) allows subgrouping of mutual fund investments for applying statutory limits on "other" investments;
- (d) requires security brokers to provide written acknowledgment of security insurance coverage;
- (e) adds a specific statutory definition of "ancillary benefits";
- (f) allows volunteer firefighter relief associations and their municipalities a local option in defining "surviving spouse";
- (g) eliminates an obsolete deferred service pension interest provision;
- (h) eliminates a mandated method for deferred service pension interest calculations;
- (i) clarifies the current ancillary benefit limitations; and
- (j) eliminates the authorization for the payment of funeral benefits from volunteer firefighter relief association special funds.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of adding pension plan activities to the public accountant misconduct reporting requirement.
2. Appropriateness of permitting investment broker-dealers to directly hold public pension plan assets.
3. Accuracy and appropriateness of the proposed refining of the "other investment" limitation determination process.
4. Appropriateness of redefining "surviving spouse" for volunteer fire benefit coverage purposes and the appropriateness of local options in the definition.
5. Appropriateness of allowing diverse methods for calculating deferred service pension interest.
6. Appropriateness of the proposed clarification of the ancillary benefit limitation.
7. Appropriateness of retaining the current short service enhanced death benefit provision.
8. Appropriateness of repealing current local volunteer firefighter relief association laws not conforming with ancillary benefit limitations.
9. Appropriateness of removing funeral benefits as an authorized volunteer firefighter relief association special fund disbursement.

Potential Amendments

- H3938-1A (technical amendment) renumbers various clauses within a paragraph in Section 3 of the bill to make the provision read more clearly.
- H3938-2A (technical amendment) corrects a grammatical error in Section 3 of the bill.
- H3938-3A eliminates the change allowing broker-dealers to hold pension plan assets directly.
- H3938-4A enhances the requirement for "excess SIPC insurance" if the broker-dealer holding of assets is to be retained.
- H3938-5A requires additional disclosures about the limitations in any "excess SIPC insurance."
- H3938-6A eliminates local option in surviving spouse definition, with status set at active service termination.
- H3938-7A eliminates local option in surviving spouse definition, with status set at date of death.
- H3938-8A retains single deferred service pension interest calculation method.
- H3938-9A adds liability calculation procedure to account for short service enhanced survivor benefit coverage.
- H3938-10A repeals nonconforming local ancillary benefit laws, with local approval.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: H.F. 3938 (Murphy, M., by request); S.F. xxxx: State Auditor's Volunteer Fire Working Group Recommendations

DATE: March 12, 2008

Summary of H.F. 3938 (Murphy, M., by request); S.F. xxxx

H.F. 3938 (Murphy, M., by request); S.F. xxxx amends Minnesota Statutes, Sections 6.67, 69.011, Subdivision 1, 356A.06, 424A.001, 424A.02, and 424A.05, relating to the Office of the State Auditor, the public pension plan fiduciary responsibility law, and the volunteer firefighter relief association substantive law, by making the following changes:

1. Public Accountant Misconduct Reporting Requirement. The requirement that public accountants report local government misconduct to the State Auditor is expanded to the various local Minnesota public pension plans, including volunteer firefighter relief associations (Section 1);
2. Security Brokers Authorized to Hold Pension Plan Assets. Insured security brokers and their agents are included as authorized holders of statewide or local Minnesota public pension plan assets (Section 3);
3. Allows Mutual Fund Investments to be Allocated into Portions for Applying Statutory Limits on "Other Investments". The "other investments" portion of the authorized investment list for all but the smallest Minnesota public pension plans is modified to allow mutual fund investments that include portions of "other investments" to be allowed into respective portions to apply the 20 percent statutory limit (Section 4);
4. Security Broker Written Acknowledgment of Security Insurance Coverage. As part of the current broker investment authority acknowledgment, security brokers and their agents are required to acknowledge that sufficient insurance has been obtained to cover the amount of Minnesota public pension plan assets held (Section 5);
5. Addition of a Specific Definition of Ancillary Benefits. A definition of "ancillary benefits" as any benefit other than a service pension is added to the substantive volunteer firefighter relief association benefit law (Section 6);
6. Local Option Redefinition of Surviving Spouse. Volunteer firefighter relief associations are provided an option to define "surviving spouse" as the legally married spouse either at the time of active service termination or at the date of death (Section 7);
7. Removal of Obsolete Deferred Service Pension Interest Provision. A State Auditor's Office calculated actual total rate of return deferred service pension interest method demonstration project, scheduled to expire on December 31, 2008, is eliminated (Section 8, Paragraph (c));
8. Elimination of Single Mandatory Deferred Service Pension Interest Calculation Method. The single method for calculating interest for deferred service pensions is eliminated in favor of the calculation method specified by the relief association and approved by the municipality (Section 8, Paragraph (d));
9. Clarification of Ancillary Benefit Limitation. For ancillary benefits paid to or on behalf of active members, the ancillary benefit is the earned service pension amount at the time of the qualifying event, calculated without any partial vesting reduction. For ancillary benefits related to deferred members, the relief association has flexibility with respect to the benefit amount payable (Section 9); and
10. Special Fund Funeral Benefit Authorization Eliminated. The authority for the payment of funeral benefits from a volunteer firefighter relief association special fund is eliminated, with a cross-reference in Minnesota Statutes, Section 69.011, Subdivision 1, is corrected (Sections 2 and 10).

Relevant Background Information

Background information on relevant topics is attached, as follows:

- Attachment A: Public Pension Plan Fiduciary Responsibility Law. Background information is presented on the 1989 codification of public employee fiduciary responsibility provisions and subsequent amendments.
- Attachment B: Securities Investor Protection Corporation (SIPC) Brokerage Default/Fraud Insurance. Background information is presented on the Securities Investor Protection Corporation (SIPC) and insurance against broker-dealer financial default or fraud.
- Attachment C: Deferred Volunteer Firefighter Relief Association Service Pensions. Background information is presented on the statutory provisions governing the payment of deferred volunteer firefighter service pensions and the interest payable on those deferred service pensions.
- Attachment D: Regulation of Volunteer Firefighter Relief Association Ancillary Benefits. Background information is presented on the statutory limitations on the payment by volunteer firefighter relief associations of benefits other than service pensions.
- Attachment E: Volunteer Firefighter Relief Association Special Fund Disbursements. Background information is presented on authorized disbursements from the special fund of a volunteer firefighter relief association.

Technical Amendments

Amendment H3938-1A numbers the clauses into which the last portion of paragraph (a) has been divided. The numbering of the five clauses will make the sentence easier to read.

Amendment H3938-2A corrects a grammatical error in the bill, where new language is proposed to be added into the middle of a two-part clause, with the new language separation rendering the second portion of the clause unintelligible. The amendment repeats the language from the first portion of the clause that makes the second portion understandable.

Discussion and Analysis

H.F. 3938 (Murphy, M., by request); S.F. xxxx represents the proposals approved by the volunteer fire working group assembled by the Office of the State Auditor, including a requirement that public accountants report to the State Auditor any local Minnesota pension plan misconduct, an authorization for security broker-dealers to hold Minnesota public pension plan assets, permits the allocation of mutual fund investments into applicable components for the application of statutory limits on various investments, requires security broker-dealers to provide written acknowledgement of adequate investment insurance coverage, permits a local option in redefining "surviving spouse" for volunteer firefighter relief association death benefits, allows local option in the method for calculating deferred service pension interest, clarifies the existing ancillary benefit limitation, and eliminates funeral benefits paid from volunteer firefighter relief association special funds.

The proposed legislation raises several pension and related public policy issues for potential Commission consideration and discussion, as follows:

1. Appropriateness of Adding Pension Plan Activities to Public Accountant Misconduct Reporting Requirement (Section 1). The policy issue is the appropriateness of expanding to local retirement plans the current requirement that public accountants report to the State Auditor any financial misconduct that they encounter. The misconduct reporting requirement dates to 1957 and currently covers virtually the whole range of governmental entities within the jurisdiction of the State Auditor's Office, other than the various local retirement plans. With the number of local pension plans, especially volunteer firefighter relief associations, the growing size of their assets, and the number of volunteer firefighter relief association officials, the potential for financial misdeeds is increasing. The State Auditor's Office believes that if the accountants performing volunteer firefighter relief association audits were to notify it when the financial misdeeds are first found, it could remedy those misdeeds earlier, reducing the risk that the statute of limitations could run in any particular misdeed. The primary argument against the change would likely be that the additional reporting requirement would increase the burden on public accountants auditing volunteer firefighter relief associations and other local public pension plans and could increase the cost of those audits. Since the accountants

