



**H.F. 2391**  
(Murphy, M.)

**S.F. 1952**  
(Rosen)

### **Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* Volunteer Firefighter Relief Associations  
*Relevant Provisions of Law:* Minnesota Statutes, Chapters 356, 356A, and 424A  
*General Nature of Proposal:* 2011-2012 State Auditor Volunteer Fire Working Group recommendations  
*Date of Summary:* February 20, 2012

### **Specific Proposed Changes**

Amends portions of Minnesota Statutes, Chapters 356, the general retirement law chapter, 356A, the public pension plan fiduciary responsibility chapter, and 424A, the volunteer firefighter relief association benefit and organizational chapter, containing the recommendations of the 2011-2012 Office of the State Auditor Volunteer Fire Relief Association Working Group, by making the following changes:

- Clarifies the fund for the asset threshold for limited investment legal list. *(Sec. 2-3)*
- Recognizes post-age-50 deferred service pensioners. *(Sec. 4, 6)*
- Clarifies the inclusion of volunteer firefighters who become full-time firefighters as deferred service pensioners. *(Sec. 4, 6)*
- Specifies a method and timing for calculating interest credited on deferred service pensions as the default method if the volunteer firefighter relief association bylaws do not specify a different interest calculation method. *(Sec. 4, 6)*
- Clarifies the lump-sum ancillary benefit limitation for combination relief associations. *(Sec. 7)*
- Makes other statutory updates. *(Sec. 1, 5)*

### **Policy Issues Raised by the Proposed Legislation**

1. Appropriateness of recognizing post-age-50 deferred service pensioners.
2. Appropriateness of deferred service pensioner status for former volunteer firefighters becoming full-time firefighters.
3. Appropriateness of a default deferred service pension interest calculation method and timing procedure.

### **Potential Amendments**

No suggested amendments by the Commission staff.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen): Volunteer Firefighter Relief Associations; 2011-2012 Office of the State Auditor Volunteer Fire Working Group Recommendations

DATE: February 20, 2012

General Summary of H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen)

H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen) amends portions of Minnesota Statutes, Chapter 356, the general retirement law chapter, Chapter 356A, the public pension plan fiduciary responsibility chapter, and Chapter 424A, the volunteer firefighter relief association benefit and organizational chapter, containing the recommendations of the 2011-2012 Office of the State Auditor Volunteer Fire Relief Association Working Group, by making the following changes:

1. Clarification of the Fund for the Asset Threshold for Limited Investment Legal List. Minnesota Statutes, Sections 356A.01, Subdivision 19, and 356A.06, Subdivision 6, are amended to clarify that the under \$1 million threshold for the application of the limited investment legal list authority is driven by pension fund assets, not all organizational assets, which means special fund assets for local police and paid fire relief associations. (Sec. 2-3)
2. Recognition of Post-Age-50 Deferred Service Pensioners. Minnesota Statutes, Sections 424A.016, Subdivision 6, and 424A.02, Subdivision 7, are amended to eliminate a pre-age-50 requirement for fire department service and volunteer firefighter relief association membership terminations qualifying as deferred service pensioners. (Sec. 4, 6)
3. Inclusion of Volunteer Firefighters Who Become Full-Time Firefighters as Deferred Service Pensioners. Minnesota Statutes, Sections 424A.016, Subdivision 6, and 424A.02, Subdivision 7, are amended to clarify that former volunteer firefighters who become full-time firefighters in the same municipality and fire department and consequently terminate volunteer firefighter relief association membership are deferred service pensioners. (Sec. 4, 6)
4. Default Deferred Service Pension Interest Calculation Method. Minnesota Statutes, Sections 424A.016, Subdivision 6, and 424A.02, Subdivision 7, are amended to specify a method and timing for calculating interest credited on deferred service pensions as the default method if the volunteer firefighter relief association bylaws do not specify a different deferred service pension interest calculation method and timing. (Sec. 4, 6)
5. Clarification of the Lump-Sum Ancillary Benefit Limitation for Combination Relief Associations. Minnesota Statutes, Section 424A.02, Subdivision 9, is amended to clarify the application of the one benefit-only limitation on lump-sum volunteer firefighter relief associations which provide a lump sum service pension as an alternative to the monthly service pension otherwise provided, making the limitation applicable only where the lump-sum service pension is elected. (Sec. 7)
6. Other Statutory Updates. Minnesota Statutes, Sections 356.219, Subdivision 8, and 424A.02, Subdivision 1, are amended to update the affected statute provisions made obsolete by recent changes in the investment performance reporting law, eliminating references to the Minneapolis Teachers Retirement Fund Association (MTRFA) and to Minneapolis Employees Retirement Fund (MERF), which consolidated with statewide retirement plans in 2006 and 2010, respectively, and eliminating a special 2002 service pension receipt and rehiring/resuming volunteer firefighter relief association membership provision in light of the 2009-2010 general return to firefighting service/relief association membership authorization. (Sec. 1, 5)

Section-by-Section Summary

A section-by-section summary of H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen) is attached.

## Informational Items on Relevant Topics

The following attachments provide information on topics relevant to the proposed legislation:

- **Attachment A:** Composition and representation of the 2011-2012 Volunteer Fire Relief Association Working Group assembled by the Office of the State Auditor.
- **Attachment B:** Background information on volunteer firefighter relief association deferred service pensions and deferred service pension interest.
- **Attachment C:** Background information on volunteer firefighter relief association return to service authorization.
- **Attachment D:** Background information on volunteer firefighter relief association ancillary benefit limits.

## Discussion and Analysis

H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen) modifies various provisions contained in Minnesota Statutes, Chapters 356, 356A, and 424A, clarifying the fund used to measure the asset threshold for application of the limited investment legal list, recognizing as deferred service pensioners volunteer firefighters terminating active service after age 50, recognizing as deferred service pensioners volunteer firefighters who become full-time firefighters within the same municipality and fire department, specifying a default interest calculation method and timing for deferred service pension interest, clarifying the application of lump-sum volunteer firefighter relief association ancillary benefit limitation for combined monthly benefit/lump-sum volunteer firefighter relief associations, and updating some obsolete statutory provisions.

The proposed legislation raises a number of pension and related public policy issues for consideration by and possible discussion by the Commission, as follows:

1. Appropriateness of the Recognition of Post-Age-50 Deferred Service Pensioners. The policy issue is the appropriateness of a statutory recognition as deferred service pensioners of volunteer firefighters who terminate active firefighting service after reaching age 50. When Minnesota Statutes, Chapter 424A, the codification of volunteer firefighter relief association benefit plan and organizational law, occurred in 1979, formulated by a modest working group representing the Minnesota State Fire Department Association and the League of Minnesota Cities, deferred service pensioners were infrequent. The 1978-1979 working group desired to clarify that firefighters with sufficient service to receive a service pension who terminate prior to reaching age 50, the most common volunteer firefighter relief association normal retirement age, retained entitlement to an eventual service pension as a deferred member. Because the practice of interest on deferred service pensions was unknown in 1979, the working group assumed that no terminating firefighter after age 50 would not take a service pension and Minnesota Statutes, Chapter 424A, was drafted accordingly. Now, deferred service pensioners and deferred service pension interest are common, terminating volunteer firefighters do not always draw their service pensions at age 50, and post-age 50 deferred service pensioners should be recognized.
2. Appropriateness of Deferred Service Pensioner Status for Former Volunteer Firefighters Becoming Full-Time Firefighters. The policy issue is the appropriateness of recognizing as deferred service pensioners former volunteer firefighter relief association members who were hired as full-time firefighters in the same fire department after the termination of their volunteer status. If the former firefighter has sufficient service and membership credit to qualify for an eventual service pension, the person is indistinguishable from a deferred service pensioner who was not subsequently employed as a full-time firefighter by the same fire department. Because volunteer firefighters can serve as a valuable pool for the training and recruitment of full-time paid firefighters for a municipality, the removal of an impediment to that practice appears to be appropriate.
3. Appropriateness of a Default Deferred Service Pension Interest Calculation Method and Timing Procedure. The policy issue is the appropriateness of providing in statute a method for calculating any interest on deferred service pensions and specifying the timing for crediting that interest. The need for the default method and procedure arises out of the review and monitoring work of the Pension Division of the Office of the State Auditor, where volunteer firefighter relief associations which provide interest on deferred service pensions apparently frequently fail to fully capture the manner in which the creditable interest is calculated and the timing over which interest applies. The default interest method and procedure has been adapted for the various existing interest or investment performance crediting provisions and opts for one of the simplest methods and timing procedures, but allows any volunteer firefighter relief association that desires to retain or create a different method or timing procedure can do so if the method and procedure is fully detailed in its bylaws.

Section-by-Section Summary of H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen)

Summary of H.F. 2391 (Murphy, M.); S.F. 1952 (Rosen)

Sec.	Pg.Ln	Retirement Plan	Stat. Provision	Summary
1	1.8	Investment performance reporting law	356.219, Subd. 8	Eliminates obsolete references to the Minneapolis Teachers Retirement Fund Association (MTRFA) and the Minneapolis Employees Retirement Fund (MERF).
2	2.5	Fiduciary responsibility law	356A.01, Subd. 19	Clarifies that "pension fund" means the special fund of a volunteer firefighter relief association (VFRA) or of a local police or paid firefighter relief association.
3	2.11	Fiduciary responsibility law	356A.06, Subd. 6	Amends limited list investment securities authorization to clarify that threshold asset size relates to the pension fund and not other funds.
4	3.29	VFRAs	424A.016, Subd. 6	Amends the defined contribution VFRA deferred annuity provision to eliminate the age-specific limit on deferred service pensioner status, clarifies that deferred service pensioners include former volunteer firefighters who have been hired as full-time firefighters in the same department, and specifies a default method for calculating interest amounts credited to deferred service pensions if the relief association bylaws do not specify a different interest credit method.
5	5.13	VFRAs	424A.02, Subd. 1	Eliminates an obsolete special authorization for service pension receipt by a volunteer firefighter who is employed as a full-time firefighter at or after the age 50 usual normal retirement age.
6	6.28	VFRAs	424A.02, Subd. 7	Amends the defined benefit VFRA deferred annuity provision to eliminate the age-specific limit on deferred service pensioner status, clarifies that deferred service pensioners include former volunteer firefighters who have been hired as full-time firefighters in the same department, and specifies a default method for calculating interest amounts credited to deferred service pensions if the relief association bylaws do not specify a different interest credit method.
7	8.20	VFRAs	424A.02, Subd. 9	Clarifies the application of the one "benefit only" limitation on lump-sum VFRAs for relief associations providing alternative lump-sum or monthly service pensions.

**Composition and Representation of the  
2011-2012 Volunteer Firefighter Relief Association Working Group  
Assembled by the Office of the State Auditor**

The Office of the State Auditor has utilized working groups of volunteer firefighters and local governmental officials since the 2004-2005 legislative interim as a mechanism for formulating revisions in volunteer firefighter relief association laws and for providing a vehicle for the provision of information on volunteer firefighter issues to state government.

During the 2011-2012 interim, the working group, chaired by State Auditor Rebecca Otto, included the following members:

Defined Contribution Plans	Wayne Anderson, Inspector Coon Rapids Fire Department
Defined Benefit Lump Sum Plans	Bruce Duncan, President Excelsior Fire Relief Association
Defined Benefit Monthly/ Lump Sum Contribution Plans	Dave Ganfield, Administrator Apple Valley Fire Relief Association
Defined Benefit Lump Sum Plans	Bruce Hemstad, Secretary Bemidji Fire Relief Association
Defined Benefit Lump Sum Plans	Dave Jaeger, Treasurer Mahnommen Fire Relief Association
Minnesota State Fire Department Association	John King, Secretary LeSueur Fire Relief Association
Defined Contribution Plans	Bruce Roed, Trustee Mentor Fire Relief Association
City Finance Manager	Tim Simon, Finance Director City of Elk River
City Finance Manager	Steven Wallner, Finance Director City of Watertown
Minnesota State Fire Chiefs Association/Monthly Plans	Nyle Zikmund, Chief Spring Lake Park-Blaine-Mounds View Fire Department

**Background Information on  
Volunteer Firefighter Relief Association  
Deferred Service Pensions and Deferred Service Pension Interest**

Volunteer firefighter relief associations pay a service pension as the pension plan's primary retirement benefit when a member volunteer firefighter terminates active firefighting service, attains the required age (at least age 50), and has credit for the required minimum years of firefighting service (at least five years of service credit; potentially 20 years of service credit) and relief association membership. 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 (or older if the relief association requires a later retirement age), Minnesota Statutes, Section 424A.02, Subdivision 7, provides for a deferred service pension that is payable when the former firefighter reaches at least the retirement age. The deferred service pension is calculated based on the law in effect when active service terminated. If the service pension amount has increased since the deferred member terminated active service, the deferred service pensioner does not benefit from the service pension amount increase.

Before 2000 (Laws 2000, Ch. 461, Art. 15, Sec. 6), the relief association was permitted to pay interest on a deferred lump sum service pension at the rate actually earned by the relief association, but not to exceed the 5% interest rate actuarial assumption underlying lump sum volunteer firefighter relief association funding. In 2000, in legislation requested by the Minnesota Area Relief Association Coalition (MARAC), an educational organization representing volunteer firefighter relief associations, the lump sum deferred service pension interest provision was modified, to encompass three options. If the relief association bylaws so provide, interest can be provided on a lump sum deferred service pension at the actual rate of interest earned if the deferred pension amount is placed in a separate relief association account established for that purpose, at the actual rate of interest earned if the deferred pension amount is invested in a separate investment vehicle held by the relief association, or at a flat 5% interest rate.

In 2003, displeased with the 2000 deferred service pension changes, the Marshall Volunteer Firefighter Relief Association sought a legislative change to replicate the pre-2002 law change. Ultimately, the Marshall Volunteer Firefighter Relief Association general law request was converted into a demonstration project and a special law provision (1<sup>st</sup> Spec. Sess. Laws 2003, Ch. 12, Art. 12, Sec. 3), which included the additional specification of the manner in which the relief association investment earnings are to be calculated. The Marshall Volunteer Firefighter Relief Association, as a demonstration project, was permitted to pay interest on its lump sum deferred service pensions based on the actual investment performance of the relief association special fund, up to 5% annually. The actual investment performance is that reported by the Office of the State Auditor under Minnesota Statutes, Section 356.219.

In 2004 (Laws 2004, Ch. 267, Art. 14, Sec. 2), the volunteer firefighter relief associations deferred service pension interest crediting provision was modified with the addition of a temporary interest crediting procedure. Relief associations were permitted to pay interest on a deferred pension equal to the actual time weighted rate of return of the pension plan as reported by the State Auditor, not to exceed 5%, if the bylaws are amended accordingly. The provision was scheduled for expiration on December 31, 2008.

In 2005 (1<sup>st</sup> Spec. Sess. Laws 2005, Ch. 8, Art. 9, Sec. 12), the deferred volunteer firefighter relief association service pension interest crediting options were modified to allow interest of 5% or less, as set by the board of directors and approved by the municipality. Interest would be payable from the first of the month following separation from service to the first of the month in which the individual becomes eligible to receive the service pension. For defined contribution plan volunteer firefighter relief associations, if provided for in the bylaws, the association may use any of the deferred service pension interest approaches approved in law for defined benefit plans, or it may credit any investment return on the special fund assets in proportion to the share of the assets in the special fund to the credit of the given deferred member.

In 2008 (Laws 2008, Ch. 349, Art. 14, Sec. 9), the computation of interest on deferred service pensions was revised. The authority to pay interest at the rate actually earned by the association as reported by the State Auditor, not to exceed 5%, was removed, and relief associations were permitted more flexibility in determining the time period over which interest is paid. Authority was retained to create a separate account for the deferred member and to pay whatever interest is earned on that account, or to not segregate the assets and to pay a compound rate of interest as specified by the relief association, not to exceed 5%.

In 2009 (Laws 2009, Ch. 169, Art. 10, Sec. 2, 23-35), the regulation of defined contribution volunteer firefighter relief associations and the regulation of defined benefit volunteer firefighter relief associations, including deferred service pensions and deferred service pension interest, were reallocated into separate provisions to better match differences between the two types of retirement plans.

## **Background Information on Volunteer Firefighter Relief Association Return to Service Authorization**

Volunteer firefighter relief associations, akin to other Minnesota public pension plans, require a separation from active covered employment or service before a service pension is payable. The general separation requirement is currently set forth in Minnesota Statutes, Section 424A.015, Subdivision 1, and the specific separation requirement is set forth in Minnesota Statutes, Section 424A.016, Subdivision 2, Paragraph (a), Clause (1), for defined contribution relief associations, or Minnesota Statutes, Section 424A.02, Subdivision 1, Paragraph (a), Clause (1).

The separation requirement was included in the initial enactment regulating volunteer firefighter relief associations, Revised Laws of 1905, Section 1655, and continued in general statute as Minnesota Statutes, Section 69.06, until it was replaced (and repealed) in 1979 (Laws 1979, Ch. 201, Sec. 12, 44) as part of the comprehensive reorganization, recodification, and revision of volunteer firefighter relief association laws.

In 1996 (Laws 1996, Ch. 438, Art. 8, Sec. 1-2), as part of a provision sought by the Spring Lake Park-Blaine-Mounds View Fire Department to allow for membership of fire prevention personnel in volunteer firefighter relief association coverage that was broadened to a statewide proposal by the Pension Commission, the term “firefighting service” was defined to include fire prevention personnel service and the term “separate from active service” was defined as cessation to perform fire suppression duties, fire prevention duties, fire suppression supervisor duties, or fire prevention supervisor duties.

In 2000 (Laws 2000, Ch. 461, Art. 15, Sec. 4, 8), the definition of the term “separate from active service” was amended to specify that the service separation be permanent and added a service pension repayment penalty for retired volunteer firefighter relief association members who return to active service with the same fire department associated with the volunteer firefighter relief association, representing recommendations approved by a 1999-2000 Interim subcommittee of the Pension Commission that were drawn from volunteer firefighter relief association law revisions requested by the Minnesota Area Relief Association Coalition (MARAC), Nyle Zikmund, President.

In 2002 (Laws 2002, Ch. 392, Art. 13, Sec. 1), the separation from active service requirement of Minnesota Statutes, Section 424A.02, Subdivision 1, was modified, following a request from the City of White Bear Lake to allow it flexibility in hiring one of its retirement-eligible volunteer firefighters as its full-time fire chief, by the addition of an exception to the requirement for full-time fire department employees where the city files a determination that the firefighter’s experience and prior service would be difficult to replace, and where the volunteer firefighter relief association bylaws were amended to allow for the service pension or disability benefit payment.

In 2009 (Laws 2009, Ch. 169, Art. 10, Sec. 21; Sec. 58, Subd. 3), from a recommendation made by the 2009 Office of the State Auditor Volunteer Firefighter Relief Association Working Group, a return to active firefighting after a break in service was authorized, and the prior penalty on retirees returning to active firefighting service was repealed. Following a break of at least 60 days, under the 2009 legislation a firefighter who returns to service may qualify for a pension on the new service if permitted in the bylaws. If a pension had been paid, any new pension would be based solely on the service after the return, and if a monthly benefit is being paid, the benefit ceases upon return to service and resumes following the final termination. If a pension was not paid, the eventual pension may be based on the combination of the new and old service.

In 2010 (Laws 2010, Ch. 359, Art. 13, Sec. 5), the return to service provision was revised by reformatting it, by exempting from the provision any service break mandated under state or federal law, by clarifying the return to service duration requirements and permitting firefighters with a break of less than one year who were not on an authorized leave to be exempt from minimum return to service requirements if permitted under plan bylaws, and by permitting monthly benefit retirees to receive a service pension after a return to service.

## **Background Information on Volunteer Firefighter Relief Association 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. In 1873, with the creation of fire state aid, municipalities were permitted to pay relief to disabled firefighters and to survivors of deceased firefighters from fire state aid if no relief association is located in the municipality. In 1909, firefighter relief associations were specifically permitted to make payments for the relief of sick, injured, and disabled firefighters and to make payments to widows and orphans of deceased firefighters. The term "widow" was not defined until 1937, requiring three years of marriage before the occurrence of death and dependency for eligibility. The provision became Minnesota Statutes 1978, Section 424.31.

In 1979 (Laws 1979, Ch. 201, Sec. 12, Subd. 9; and Sec. 14-16), as part of the reorganization and recodification of the volunteer firefighter relief association coverage, benefit, and structure laws, former Minnesota Statutes 1978, Section 424.31, was incorporated into new Minnesota Statutes, Chapter 424A. The limitations are needed to protect the financial solvency 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:

1. 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.
2. 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.



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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2391

02/20/2012 Authored by Murphy, M.

The bill was read for the first time and referred to the Committee on Government Operations and Elections

A bill for an act

relating to retirement; volunteer firefighter relief associations; implementing the recommendations of the 2011-2012 state auditor volunteer fire working group; amending Minnesota Statutes 2010, sections 356.219, subdivision 8; 356A.01, subdivision 19; 356A.06, subdivision 6; 424A.016, subdivision 6; 424A.02, subdivisions 1, 7, 9.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 356.219, subdivision 8, is amended to read:

Subd. 8. **Timing of reports.** (a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c).

(b) For the ~~Minneapolis Teachers Retirement Fund Association~~, the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, the ~~Minneapolis Employees Retirement Fund~~, the University of Minnesota faculty supplemental retirement plan, and the applicable administrators for the University of Minnesota faculty retirement plan and the individual retirement account plans under chapters 354B and 354D, the information required under this section must be submitted to the state auditor by June 1 of each year.

2.1 (c) The State Board of Investment, on behalf of pension funds specified in  
 2.2 subdivision 1, paragraph (c), must report information required under this section by  
 2.3 September 1 of each year.

2.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.5 Sec. 2. Minnesota Statutes 2010, section 356A.01, subdivision 19, is amended to read:

2.6 Subd. 19. **Pension fund.** "Pension fund" means the assets amassed and held in a  
 2.7 pension plan, other than the general fund, as reserves for present and future payment of  
 2.8 benefits and administrative expenses. For a retirement plan governed by section 69.77 or  
 2.9 by chapter 424A, the term means the relief association special fund.

2.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.11 Sec. 3. Minnesota Statutes 2010, section 356A.06, subdivision 6, is amended to read:

2.12 Subd. 6. **Limited list of authorized investment securities.** (a) Except to the  
 2.13 extent otherwise authorized by law, a covered pension plan may invest its assets only in  
 2.14 investment securities authorized by this subdivision if the plan does not:

2.15 (1) have pension fund assets with a book value in excess of \$1,000,000;

2.16 (2) use the services of an investment advisor registered with the Securities and  
 2.17 Exchange Commission in accordance with the Investment Advisers Act of 1940, or  
 2.18 registered as an investment advisor in accordance with sections 80A.58, and 80A.60, for  
 2.19 the investment of at least 60 percent of its pension fund assets, calculated on book value;

2.20 (3) use the services of the State Board of Investment for the investment of at least 60  
 2.21 percent of its pension fund assets, calculated on book value; or

2.22 (4) use a combination of the services of an investment advisor meeting the  
 2.23 requirements of clause (2) and the services of the State Board of Investment for the  
 2.24 investment of at least 75 percent of its pension fund assets, calculated on book value.

2.25 (b) Investment securities authorized for a pension plan covered by this subdivision  
 2.26 are:

2.27 (1) certificates of deposit issued, to the extent of available insurance or  
 2.28 collateralization, by a financial institution that is a member of the Federal Deposit  
 2.29 Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured  
 2.30 by the National Credit Union Administration, or is authorized to do business in this state  
 2.31 and has deposited with the chief administrative officer of the plan a sufficient amount of  
 2.32 marketable securities as collateral in accordance with section 118A.03;

3.1 (2) savings accounts, to the extent of available insurance, with a financial institution  
 3.2 that is a member of the Federal Deposit Insurance Corporation or the Federal Savings  
 3.3 and Loan Insurance Corporation;

3.4 (3) governmental obligations, including bonds, notes, bills, or other fixed  
 3.5 obligations, issued by the United States, an agency or instrumentality of the United States,  
 3.6 an organization established and regulated by an act of Congress or by a state, state agency  
 3.7 or instrumentality, municipality, or other governmental or political subdivision that:

3.8 (i) for the obligation in question, issues an obligation that equals or exceeds the  
 3.9 stated investment yield of debt securities not exempt from federal income taxation and of  
 3.10 comparable quality;

3.11 (ii) for an obligation that is a revenue bond, has been completely self-supporting  
 3.12 for the last five years; and

3.13 (iii) for an obligation other than a revenue bond, has issued an obligation backed by  
 3.14 the full faith and credit of the applicable taxing jurisdiction and has not been in default on  
 3.15 the payment of principal or interest on the obligation in question or any other nonrevenue  
 3.16 bond obligation during the preceding ten years;

3.17 (4) corporate obligations, including bonds, notes, debentures, or other regularly  
 3.18 issued and readily marketable evidences of indebtedness issued by a corporation organized  
 3.19 under the laws of any state that during the preceding five years has had on average  
 3.20 annual net pretax earnings at least 50 percent greater than the annual interest charges  
 3.21 and principal payments on the total issued debt of the corporation during that period  
 3.22 and that, for the obligation in question, has issued an obligation rated in one of the top  
 3.23 three quality categories by Moody's Investors Service, Incorporated, or Standard and  
 3.24 Poor's Corporation; and

3.25 (5) shares in an open-end investment company registered under the federal  
 3.26 Investment Company Act of 1940, if the portfolio investments of the company are limited  
 3.27 to investments that meet the requirements of clauses (1) to (4).

3.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.29 Sec. 4. Minnesota Statutes 2010, section 424A.016, subdivision 6, is amended to read:

3.30 Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled  
 3.31 to a deferred service pension if the member:

3.32 (1) has completed the lesser of the minimum period of active service with the fire  
 3.33 department specified in the bylaws or 20 years of active service with the fire department;

3.34 (2) has completed at least five years of active membership in the relief association;  
 3.35 and

4.1 (3) separates from active service and membership ~~before reaching age 50 or the~~  
 4.2 ~~minimum age for retirement and commencement of a service pension specified in the~~  
 4.3 ~~bylaws governing the relief association if that age is greater than age 50.~~ The requirement  
 4.4 that a member separate from active service and membership is waived for persons who  
 4.5 have discontinued their volunteer firefighter duties and who are employed on a full-time  
 4.6 basis under section 424A.015, subdivision 1.

4.7 (b) The deferred service pension is payable when the former member reaches  
 4.8 at least age 50, or at least the minimum age specified in the bylaws governing the relief  
 4.9 association if that age is greater than age 50, and when the former member makes a valid  
 4.10 written application.

4.11 (c) A defined contribution relief association may, if its governing bylaws so provide,  
 4.12 credit interest or additional investment performance on the deferred lump-sum service  
 4.13 pension during the period of deferral. If provided for in the bylaws, the interest must be  
 4.14 paid:

4.15 (1) at the investment performance rate actually earned on that portion of the assets  
 4.16 if the deferred benefit amount is invested by the relief association in a separate account  
 4.17 established and maintained by the relief association ~~or;~~

4.18 (2) at the investment performance rate actually earned on that portion of the assets  
 4.19 if the deferred benefit amount is invested in a separate investment vehicle held by the  
 4.20 relief association; or

4.21 ~~(2)~~ (3) at the investment return on the assets of the special fund of the defined  
 4.22 contribution volunteer firefighter relief association in proportion to the share of the assets  
 4.23 of the special fund to the credit of each individual deferred member account through  
 4.24 the accounting date on which the investment return is recognized by and credited to the  
 4.25 special fund.

4.26 (d) Unless the bylaws of a relief association that has elected to pay interest or  
 4.27 additional investment performance on deferred lump-sum service pensions under  
 4.28 paragraph (c) specifies a different interest or additional investment performance method,  
 4.29 including the interest or additional investment performance period starting date and ending  
 4.30 date, the interest or additional investment performance on a deferred service pension  
 4.31 is creditable as follows:

4.32 (1) for a relief association that has elected to pay interest or additional investment  
 4.33 performance under paragraph (c), clause (1) or (3), beginning on the date that the  
 4.34 member separates from active service and membership and ending on the accounting  
 4.35 date immediately before the deferred member commences receipt of the deferred service  
 4.36 pension; or

5.1 (2) for a relief association that has elected to pay interest or additional investment  
 5.2 performance under paragraph (c), clause (2), beginning on the date that the member  
 5.3 separates from active service and membership and ending on the date that the separate  
 5.4 investment vehicle is valued immediately before the date on which the deferred member  
 5.5 commences receipt of the deferred service pension.

5.6 (e) The deferred service pension is governed by and must be calculated under  
 5.7 the general statute, special law, relief association articles of incorporation, and relief  
 5.8 association bylaw provisions applicable on the date on which the member separated from  
 5.9 active service with the fire department and active membership in the relief association.

5.10 **EFFECTIVE DATE.** (a) This section is effective January 1, 2013.

5.11 (b) This section applies only to persons becoming deferred service pensioners after  
 5.12 January 1, 2013.

5.13 Sec. 5. Minnesota Statutes 2010, section 424A.02, subdivision 1, is amended to read:

5.14 Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its  
 5.15 articles of incorporation or bylaws so provide, may pay out of the assets of its special  
 5.16 fund a defined benefit service pension to each of its members who: (1) separates from  
 5.17 active service with the fire department; (2) reaches age 50; (3) completes at least five  
 5.18 years of active service as an active member of the municipal fire department to which the  
 5.19 relief association is associated; (4) completes at least five years of active membership  
 5.20 with the relief association before separation from active service; and (5) complies with  
 5.21 any additional conditions as to age, service, and membership that are prescribed by the  
 5.22 bylaws of the relief association. A service pension computed under this section may be  
 5.23 prorated monthly for fractional years of service as the bylaws or articles of incorporation  
 5.24 of the relief association so provide. The bylaws or articles of incorporation may define  
 5.25 a "month," but the definition must require a calendar month to have at least 16 days of  
 5.26 active service. If the bylaws or articles of incorporation do not define a "month," a  
 5.27 "month" is a completed calendar month of active service measured from the member's  
 5.28 date of entry to the same date in the subsequent month. The service pension earned by a  
 5.29 volunteer firefighter under this chapter and the articles of incorporation and bylaws of the  
 5.30 volunteer firefighters' relief association may be paid whether or not the municipality or  
 5.31 nonprofit firefighting corporation to which the relief association is associated qualifies for  
 5.32 the receipt of fire state aid under chapter 69.

5.33 (b) In the case of a member who has completed at least five years of active service as  
 5.34 an active member of the fire department to which the relief association is associated on  
 5.35 the date that the relief association is established and incorporated, the requirement that

6.1 the member complete at least five years of active membership with the relief association  
 6.2 before separation from active service may be waived by the board of trustees of the relief  
 6.3 association if the member completes at least five years of inactive membership with the  
 6.4 relief association before the date of the payment of the service pension. During the  
 6.5 period of inactive membership, the member is not entitled to receive disability benefit  
 6.6 coverage, is not entitled to receive additional service credit towards computation of a  
 6.7 service pension, and is considered to have the status of a person entitled to a deferred  
 6.8 service pension under subdivision 7.

6.9 (c) No municipality or nonprofit firefighting corporation may delegate the power to  
 6.10 take final action in setting a service pension or ancillary benefit amount or level to the  
 6.11 board of trustees of the relief association or to approve in advance a service pension or  
 6.12 ancillary benefit amount or level equal to the maximum amount or level that this chapter  
 6.13 would allow rather than a specific dollar amount or level.

6.14 ~~(d) No relief association as defined in section 424A.001, subdivision 4, may pay a~~  
 6.15 ~~defined benefit service pension or disability benefit to a former member of the relief~~  
 6.16 ~~association if that person has not separated from active service with the fire department to~~  
 6.17 ~~which the relief association is directly associated, unless:~~

6.18 ~~(1) the person is employed subsequent to retirement by the municipality or the~~  
 6.19 ~~independent nonprofit firefighting corporation, whichever applies, to perform duties within~~  
 6.20 ~~the municipal fire department or corporation on a full-time basis;~~

6.21 ~~(2) the governing body of the municipality or of the corporation has filed its~~  
 6.22 ~~determination with the board of trustees of the relief association that the person's~~  
 6.23 ~~experience with and service to the fire department in that person's full-time capacity~~  
 6.24 ~~would be difficult to replace; and~~

6.25 ~~(3) the bylaws of the relief association were amended to provide for the payment of~~  
 6.26 ~~a service pension or disability benefit for such full-time employees.~~

6.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.28 Sec. 6. Minnesota Statutes 2010, section 424A.02, subdivision 7, is amended to read:

6.29 Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief  
 6.30 association is entitled to a deferred service pension if the member:

6.31 (1) has completed the lesser of either the minimum period of active service with  
 6.32 the fire department specified in the bylaws or 20 years of active service with the fire  
 6.33 department;

6.34 (2) has completed at least five years of active membership in the relief association;  
 6.35 and

7.1 (3) separates from active service and membership ~~before reaching age 50 or the~~  
 7.2 ~~minimum age for retirement and commencement of a service pension specified in the~~  
 7.3 ~~bylaws governing the relief association if that age is greater than age 50.~~ The requirement  
 7.4 that a member separate from active service and membership is waived for persons who  
 7.5 have discontinued their volunteer firefighter duties and who are employed on a full-time  
 7.6 basis under section 424A.015, subdivision 1.

7.7 (b) The deferred service pension is payable when the former member reaches  
 7.8 at least age 50, or at least the minimum age specified in the bylaws governing the relief  
 7.9 association if that age is greater than age 50, and when the former member makes a valid  
 7.10 written application.

7.11 (c) A defined benefit relief association that provides a lump-sum service pension  
 7.12 governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the  
 7.13 deferred lump-sum service pension during the period of deferral. If provided for in the  
 7.14 bylaws, interest must be paid in one of the following manners:

7.15 (1) at the investment performance rate actually earned on that portion of the assets  
 7.16 if the deferred benefit amount is invested by the relief association in a separate account  
 7.17 established and maintained by the relief association ~~or~~;

7.18 (2) at the investment performance rate actually earned on that portion of the assets if  
 7.19 the deferred benefit amount is invested in a separate investment vehicle held by the relief  
 7.20 association; or

7.21 ~~(2)~~ (3) at an interest rate of up to five percent, compounded annually, as set by the  
 7.22 board of directors and approved as provided in subdivision 10.

7.23 (d) Interest under paragraph (c), clause ~~(2)~~ (3), is payable following the date on  
 7.24 which the municipality has approved the deferred service pension interest rate established  
 7.25 by the board of trustees.

7.26 (e) Unless the bylaws of a relief association that has elected to pay interest or  
 7.27 additional investment performance on deferred lump-sum service pensions under  
 7.28 paragraph (c) specifies a different interest or additional investment performance method,  
 7.29 including the interest or additional investment performance period starting date and ending  
 7.30 date, the interest or additional investment performance on a deferred service pension  
 7.31 is creditable as follows:

7.32 (1) for a relief association that has elected to pay interest or additional investment  
 7.33 performance under paragraph (c), clause (1) or (3), beginning on the date that the  
 7.34 member separates from active service and membership and ending on the accounting  
 7.35 date immediately before the deferred member commences receipt of the deferred service  
 7.36 pension; or

8.1 (2) for a relief association that has elected to pay interest or additional investment  
 8.2 performance under paragraph (c), clause (2), beginning on the date that the member  
 8.3 separates from active service and membership and ending on the date that the separate  
 8.4 investment vehicle is valued immediately before the date on which the deferred member  
 8.5 commences receipt of the deferred service pension.

8.6 (f) For a deferred service pension that is transferred to a separate account established  
 8.7 and maintained by the relief association or separate investment vehicle held by the relief  
 8.8 association, the deferred member bears the full investment risk subsequent to transfer and  
 8.9 in calculating the accrued liability of the volunteer firefighters relief association that pays  
 8.10 a lump-sum service pension, the accrued liability for deferred service pensions is equal  
 8.11 to the separate relief association account balance or the fair market value of the separate  
 8.12 investment vehicle held by the relief association.

8.13 ~~(f)~~ (g) The deferred service pension is governed by and must be calculated under  
 8.14 the general statute, special law, relief association articles of incorporation, and relief  
 8.15 association bylaw provisions applicable on the date on which the member separated from  
 8.16 active service with the fire department and active membership in the relief association.

8.17 **EFFECTIVE DATE.** (a) This section is effective January 1, 2013.

8.18 (b) This section applies only to persons becoming deferred service pensioners after  
 8.19 January 1, 2013.

8.20 **Sec. 7.** Minnesota Statutes 2010, section 424A.02, subdivision 9, is amended to read:

8.21 **Subd. 9. Limitation on ancillary benefits.** A defined benefit relief association,  
 8.22 including any volunteer firefighters relief association governed by section 69.77 or any  
 8.23 volunteer firefighters division of a relief association governed by chapter 424, may only  
 8.24 pay ancillary benefits which would constitute an authorized disbursement as specified in  
 8.25 section 424A.05 subject to the following requirements or limitations:

8.26 (1) with respect to a defined benefit relief association in which governing bylaws  
 8.27 provide solely for a lump-sum service pension to a retiring member, or provide a retiring  
 8.28 member the choice of either a lump-sum service pension or a monthly service pension  
 8.29 and the lump-sum service pension was chosen, no ancillary benefit may be paid to any  
 8.30 former member or paid to any person on behalf of any former member after the former  
 8.31 member (i) terminates active service with the fire department and active membership  
 8.32 in the relief association; and (ii) commences receipt of a service pension as authorized  
 8.33 under this section; and

8.34 (2) with respect to any defined benefit relief association, no ancillary benefit paid or  
 8.35 payable to any member, to any former member, or to any person on behalf of any member



9.1 or former member, may exceed in amount the total earned service pension of the member  
9.2 or former member. The total earned service pension must be calculated by multiplying  
9.3 the service pension amount specified in the bylaws of the relief association at the time of  
9.4 death or disability, whichever applies, by the years of service credited to the member or  
9.5 former member. The years of service must be determined as of (i) the date the member or  
9.6 former member became entitled to the ancillary benefit; or (ii) the date the member or  
9.7 former member died entitling a survivor or the estate of the member or former member to  
9.8 an ancillary benefit. The ancillary benefit must be calculated without regard to whether the  
9.9 member had attained the minimum amount of service and membership credit specified in  
9.10 the governing bylaws. For active members, the amount of a permanent disability benefit  
9.11 or a survivor benefit must be equal to the member's total earned service pension except  
9.12 that the bylaws of a defined benefit relief association may provide for the payment of a  
9.13 survivor benefit in an amount not to exceed five times the yearly service pension amount  
9.14 specified in the bylaws on behalf of any member who dies before having performed five  
9.15 years of active service in the fire department with which the relief association is affiliated.

9.16 (3)(i) If a lump sum survivor or death benefit is payable under the articles of  
9.17 incorporation or bylaws, the benefit must be paid:

9.18 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

9.19 (B) as a survivor benefit to the surviving children of the deceased firefighter if  
9.20 no surviving spouse;

9.21 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no  
9.22 surviving spouse or surviving children; or

9.23 (D) as a death benefit to the estate of the deceased active or deferred firefighter if no  
9.24 surviving children and no beneficiary designated.

9.25 (ii) If there are no surviving children, the surviving spouse may waive, in writing,  
9.26 wholly or partially, the spouse's entitlement to a survivor benefit.

9.27 (4)(i) If a monthly benefit survivor or death benefit is payable under the articles of  
9.28 incorporation or bylaws, the benefit must be paid:

9.29 (A) as a survivor benefit to the surviving spouse of the deceased firefighter;

9.30 (B) as a survivor benefit to the surviving children of the deceased firefighter if  
9.31 no surviving spouse;

9.32 (C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no  
9.33 surviving spouse or surviving children; or

9.34 (D) as a death benefit to the estate of the deceased active or deferred firefighter if no  
9.35 surviving spouse, no surviving children, and no beneficiary designated.

10.1 (ii) If there are no surviving children, the surviving spouse may waive, in writing,  
10.2 wholly or partially, the spouse's entitlement to a survivor benefit.

10.3 (iii) For purposes of this clause, if the relief association bylaws authorize a monthly  
10.4 survivor benefit payable to a designated beneficiary, the relief association bylaws may  
10.5 limit the total survivor benefit amount payable.

10.6 (5) For purposes of this section, for a monthly benefit volunteer fire relief association  
10.7 or for a combination lump-sum and monthly benefit volunteer fire relief association where  
10.8 a monthly benefit service pension has been elected by or a monthly benefit is payable with  
10.9 respect to a firefighter, a designated beneficiary must be a natural person. For purposes  
10.10 of this section, for a lump-sum volunteer fire relief association or for a combination  
10.11 lump-sum and monthly benefit volunteer fire relief association where a lump-sum service  
10.12 pension has been elected by or a lump-sum benefit is payable with respect to a firefighter,  
10.13 a trust created under chapter 501B may be a designated beneficiary. If a trust is payable to  
10.14 the surviving children organized under chapter 501B as authorized by this section and  
10.15 there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding  
10.16 a requirement of this section to the contrary.

10.17 **EFFECTIVE DATE.** This section is effective January 1, 2013.