



H.F. 1941

(Kahn)

S.F. 2036

(Larson)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Minneapolis Police Relief Association
Relevant Provisions of Law: Minnesota Statutes, Section 423B.10, Subdivision 1
General Nature of Proposal: Validates premature surviving spouse benefit payments
Date of Summary: April 30, 2007

Specific Proposed Changes

- Validates the premature payment of surviving spouse benefit increases from 1997 and 2005.

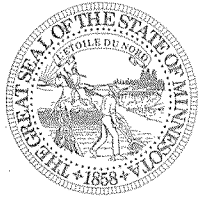
Policy Issues Raised by the Proposed Legislation

1. Lack of clarity about the survivor benefit overpayment.
2. Appropriateness of validating benefit overpayments rather than recapturing benefit overpayments.
3. Need for increased administrative scrutiny and oversight.
4. Appropriateness of the lack of local approval requirement.

Potential Amendments

H1941-1A (substantive) makes the survivor benefit increase prospective rather than retroactive.

H1941-2A (substantive) adds local approval clause effective date provision.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: H.F. 1941 (Kahn); S.F. 2036 (Larson): Minneapolis Police Relief Association;
Surviving Spouse Benefit Correction/Clarification

DATE: April 26, 2007

Summary of H.F. 1941 (Kahn); S.F. 2036 (Larson)

H.F. 1941 (Kahn); S.F. 2036 (Larson) amends Minnesota Statutes, 423B.10, Subdivision 1, the Minneapolis Police Relief Association provision that specifies the benefit eligibility and benefit amount for surviving spouses and surviving children, by eliminating a pre-January 1, 2006, surviving spouse benefit amount and by validating any surviving spouse benefit payments made consistent with the post-December 31, 2005, benefit level before January 1, 2006.

Background Information

- A. Minneapolis Police Relief Association. Background information on the Minneapolis Police Relief Association is set forth in Attachment A.
- B. 1997 Minneapolis Police Relief Association Benefit Legislation. Background information on the 1997 benefit increases for the Minneapolis Police Relief Association is set forth in Attachment B.
- C. 2005 Minneapolis Police Relief Association Benefit Legislation. Background information on the 2005 benefit increases for the Minneapolis Police Relief Association is set forth in Attachment C.

Discussion and Analysis

H.F. 1941 (Kahn); S.F. 2036 (Larson) validates the premature payment of surviving spouse benefit increases from 1997 and 2005.

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

1. Lack of Clarity About the Survivor Benefit Overpayment. The policy issue is the lack of clarity on the face of the proposed legislation of the nature of the survivor benefit overpayments made by the Minneapolis Police Relief Association and covered by the retroactive benefit ratification provision of the proposed legislation. Based on a memorandum from the law firm retained by the Minneapolis Police Relief Association and information provided by the City of Minneapolis, the problem was not identified until early March 2007, and was not presented to the Minneapolis Police Relief Association board of trustees until March 13, 2007. The memorandum from Rice, Michels & Walther, LLP, suggests that the actual drafting of the 1997 and 2005 Minneapolis Police Relief Association benefit increase did not match the relief association's intent. The relief association has been paying surviving spouses of members who retired with 20 years of service or 21 years of service an additional unit (1/70th of the salary of a top-grade patrol officer) beyond the benefit amount specified in the current Minneapolis Police Relief Association law. Representatives of the relief association should be requested to provide additional clarity about the amount of benefits involved, the extent of time involved, and why the alleged drafting error was not raised earlier.
2. Appropriateness of Validating Benefit Overpayments Rather Than Recapturing Benefit Overpayments. The policy issue is the appropriateness of the Legislature enacting retroactive benefit validation legislation rather than drafting benefit amounts for the future or enacting a benefit increase with the recapture of the applicable overpayments. The counsel for the relief association is arguing that "if the statute is read literally, and the legislative background and practice of the MPRA is not understood, someone could argue that those surviving spouses could be in a position to receive a pension less than they anticipate or less than the fund anticipated they would receive." While the intent of the relief association may be clear to representatives of the relief association, the benefit payment authority of the relief association is a function of the governing law and not ethereal notions in the minds of a handful of pension plan officials. Of all of the various elements of a benefit plan, the easiest to specify clearly in drafting would be benefit amounts, where this alleged error occurred. The representatives of the relief

association prepared the 1997 and 2005 benefit increase legislation and they should be held to some standard when they complain about a drafting error that they caused. Although the Minneapolis Police Relief Association legal counsel indicates that the 1997 drafting error in accommodating the folding-in of the health and welfare unit went unnoticed during the past decade, the Commission staff summary of the 1997 Minneapolis Police Relief Association benefit increase legislation did include a note that the health and welfare unit fold-in was not accomplished as cleanly or as clearly as it ought to have been. The relief association ignored that expression of concern by the Commission staff.

Amendment H1941-1A would make the survivor benefit increase prospective rather than retroactive and provides for an adjustment of affected survivor benefits to account for past survivor benefit payments.

3. Need for Increased Administrative Scrutiny and Oversight. The policy issue is the appropriate level of scrutiny and oversight of the administration of the Minneapolis Police Relief Association in light of this benefit overpayment problem, high past administrative costs by the relief association, a history of contentiousness between board members, and past investment oversight failures by the relief association. The Minneapolis Police Relief Association has been a nine-member board of trustees (seven elected by the membership and two appointed by the City of Minneapolis) and that board had the salaries of elected members significantly increased in 2006, in part based on the argument that the board president and board members are engaged in greater administrative staff monitoring and oversight. The Minneapolis Police Relief Association has an administrative staff of three, which is 60 percent of the size of the administrative staff of the Duluth Teachers Retirement Fund Association (DTRFA) and one-half the size of the administrative staff of the St. Paul Teachers Retirement Fund Association (SPTRFA), while it has only 921 total members (compared to 3,246 for DTRFA and 9,944 for SPTRFA). The plan recently has been criticized by the Office of the State Auditor for its high administrative expenses. The elected Minneapolis Police Relief Association board members have had numerous disputes in recent years, including the impeachment of incumbent board members. The relief association has regularly underperformed the State Board of Investment in managing relief association assets and is still recovering from investment losses related to Technimar and its investment manager, David Welliver, a decade ago. It is unclear how this benefit overpayment situation came to be recognized, but if it was as a result of oversight activities by the Office of the State Auditor, that office should be lauded. The extent of the actual or potential administrative problems arising in connection with this relief association raises the issue of whether or not the separate relief association administration remains appropriate.
4. Appropriateness of the Lack of Local Approval Requirement. The policy issue is whether the proposed legislation is appropriate when it lacks a local approval requirement. Although the law governing the Minneapolis Police Relief Association is codified as Minnesota Statutes, Chapter 423B, the change proposed in the bill is of a local nature of interest to the City of Minneapolis. As essentially local legislation, it would be most consistent with the requirements of the Minnesota Constitution if it were made effective only if approved by the Minneapolis City Council. Most Minneapolis Police Relief Association legislation, including the 2005 and 2006 Minneapolis Police Relief Association legislation, was enacted contingent on local approval.

Amendment H1941-2A adds a local approval clause.

Attachment A

Background information on the Minneapolis Police Relief Association

- a. Minneapolis Police Relief Association Establishment and Operation. The Minneapolis Police Relief Association was established as an organization in 1890, initially to provide relief to disabled police officers and to the families of deceased police officers. The relief association was incorporated under Minnesota law in 1905. Membership in the Minneapolis Police Relief Association was closed to newly employed police officers as of June 15, 1980, when pension coverage for new hires shifted to the statewide Public Employees Police and Fire Plan (PERA-P&F).

The Minneapolis Police Relief Association is managed by a governing board of nine members, of which seven are elected by the relief association membership and two are representatives of the City of Minneapolis. In addition to maintaining records and determining benefit amounts, the Minneapolis Police Relief Association governing board is the investment authority for the assets of the special (pension) funds of the relief association.

In calendar year 2005, the Minneapolis Police Relief Association received total contributions of \$31.6 million (79.2 percent from the city and 20.8 percent from the State), received net investment income of \$20.1 million, paid total retirement benefits of \$33.8 million, and paid administrative expenses of \$590,000 (for which the relief association provided no itemization in its annual financial report).

- b. Nature of the Benefit Plan; Benefit Coverage. The Minneapolis Police Relief Association provides from its special fund a salary-related service pension to police officers retiring at age 50 or older with at least five years of service, a disability benefit to temporarily or permanently disabled police officers, a survivor benefit to the surviving family of a deceased active, retired, or disabled police officer, and a return of contributions to the estate of deceased active, retired, or disabled police officers on whose behalf no survivor benefit is payable. Pensions and benefits are based on the salary of a top-grade police officer, irrespective of the actual rank of the police officer, and these pensions and benefits increase after retirement as the salary of a top-grade police officer increases (the “escalator” post-retirement adjustment mechanism) and also increase based on the investment performance of the special fund (the “thirteenth check” post retirement adjustment). Under Laws 1997, Chapter 233, Article 4, a joint-and-survivor optional annuity form can be elected in lieu of the automatic survivorship coverage otherwise provided by the fund.

Since 1992 (Laws 1992, Chapter 471, Article 1, Section 14), the contributions by any member (eight percent of the pay of a top-grade police officer) who has 25 or more years of service are not deposited in the special fund; but rather, the contribution is deposited in a health insurance account set up for the member. After retirement, in addition to the pension benefit paid from the association’s special fund, the retiree receives distributions from the health insurance account, which the retiree can use toward health care costs or other expenses of the retiree.

When a Minneapolis police officer retires and begins drawing a service pension from the association’s special fund, those benefits are eligible for increases annually through three different post-retirement increase mechanisms. Individually and as a package, these adjustment provisions are poorly designed and can produce increases which bear no relationship to inflation, and can produce erratic changes in the benefits over time. The mechanisms are:

1. Active Salary-Related Escalator. The first post-retirement adjustment is a standard escalator tied to increases in the salary of a top-grade police officer. This escalator increases retirement benefits by the same percentage increase as the percentage increase in top-grade police officer pay negotiated between the city and the Minneapolis Police Federation.
2. Thirteenth Check Adjustment. A second increase provision is based on the investment performance of the special fund of the relief association, and is referred to as the thirteenth check post-retirement adjustment. The thirteenth check post-retirement adjustment was enacted in 1989.
3. Additional Post-Retirement Adjustment. A third post-retirement increase mechanism was added to law in 2000 (Laws 2000, Chapter 461, Article 17). If the funding ratio (percentage of plan pension liabilities covered by plan assets) of the relief association exceeds 110 percent, the association is authorized to distribute a portion of the funding in excess of 110 percent of its liabilities to its benefit recipients.

- c. Actuarial and Financial Reporting. The Minneapolis Police Relief Association is required to prepare actuarial reporting under Minnesota Statutes, Sections 69.77, 356.215, 356.216, and 423B.15. The relief association is required to make financial reports under Minnesota Statutes, Sections 69.051 and 356.20.

Minnesota Statutes, Section 69.77, initially enacted in 1969 (Laws 1969, Chapter 223), and amended periodically thereafter, requires municipalities to fund their local relief associations on an actuarial basis. The basic provisions of the 1969 Local Police and Salaried Firefighters Relief Associations Financial Guidelines Act are as follows:

1. Each member of a local association is required to contribute at least eight percent of the salary used for calculating retirement benefits, with the contribution to be made by salary deduction.
2. The financial requirements of the associations must be calculated annually based on the most recent actuarial valuation. The financial requirements are to include normal cost and amortization of the unfunded accrued liability by the year 2010. The minimum obligation of the municipality to be raised by taxes each year is the financial requirements of the association, less member contribution amounts received under the police or fire state aid program, and amounts received under the local police and salaried firefighter relief associations' amortization aid programs for that year.
3. The levy required to meet the municipality's minimum obligation is outside statutory or charter levy limitations.
4. If a municipality fails to include an amount sufficient to meet the minimum obligation to the association, the relief association has the authority to certify the amount required to the county auditor for inclusion in the municipality's tax levy.
5. Investments of local associations must be in securities which are authorized investments under Minnesota Statutes, Chapter 356A.
6. Local associations are authorized to contract with outside investment advisors and are authorized to certify funds for investment by the State Board of Investment in the Minnesota Supplemental Investment Fund.
7. Actuarial valuations must be filed by the association with the State Auditor, the Legislative Commission on Pensions and Retirement, the Legislative Reference Library, and the municipality.
8. All articles of incorporation or bylaw amendments affecting benefits for a local relief association must be ratified by the municipality prior to becoming effective.
9. The penalty for a violation of the act is to make the transfer of funds received under the various state aid programs or the levying of taxes by the municipality unlawful.

Minnesota Statutes, Sections 356.215 and 356.215, require the preparation of actuarial valuations under the entry age normal cost actuarial method, using specified interest and salary rate actuarial assumptions, and calculating the actuarial requirements based on a specified amortization target date. Minnesota Statutes, Section 423C.15, provides for an adjustment to the city normal cost contribution, suspends city normal cost contributions in certain instances, provides 15-year amortization periods for actuarial losses after 2001, and limits the amortization target date revisions to the end of the average life expectancy of the relief association membership.

Minnesota Statutes, Section 69.051, a portion of the police state aid program, requires the preparation of a financial report and audit for qualification for police state aid, with the report filed with the State Auditor and with the Legislative Commission on Pensions and Retirement. Minnesota Statutes, Section 356.20, requires annual financial reporting by various Minnesota public pension plans, but grandparents financial reporting under Minnesota Statutes, Section 69.051, by local fire and police relief associations.

- d. Minneapolis Police Relief Association Funding Problems. Although not as poorly funded as the Minneapolis Firefighters Relief Association in the 1960s, the Minneapolis Police Relief Association was a poorly funded retirement plan historically, with a funding ratio (assets divided by accrued liability) of two percent in 1967, of almost 11 percent in 1972, and of just under 29 percent in 1982. The Minneapolis Police Relief Association was funded on a current disbursements/pay-as-you-go basis for almost a century, which greatly contributed to its general poor funding situation in the 1960s. Actuarial funding was phased in for the Minneapolis Police Relief Association in 1969 under the Local Police and Paid Fire Relief Associations Guidelines Act and the 1969 legislation caused the improved funding ratios in the 1970s. In 1980, the Minneapolis Police Relief Association was closed to new active members, a requirement to amortize the unfunded actuarial accrued liability by 2010

was added, and an amortization state aid program was created, with the Minneapolis Police Relief Association receiving about one-sixth of the \$6.5 million annual aid amount.

The 1969 and 1980 actuarial funding requirements, the addition of direct state aid programs in 1980, 1984, and 1996, combined with the periodically strong investment markets since 1980, have produced consistently improving funded ratios during the period 1982 to 1999, with the Minneapolis Police Relief Association becoming 50 percent funded in 1986, 75 percent funded in 1990, and 95 percent funded in 1999. The improved funding condition of the Minneapolis Police Relief Association over the period 1982-1999 caused the employer requirement to drop from a high of \$15 million in 1985 to a low of \$3.5 million in 1999. Various circumstances caused erosion in the Minneapolis Police Relief Association funded ratio since 1999, with a 2005 funded ratio of 77 percent. The circumstances causing the funded ratio to erode were the cumulative effect of various benefit increases, general investment underperformance, a significant loss in the relief association's large venture capital investment in Technomar, a board-driven redefinition of the salary level on which benefits are based, and the recent investment market decline. The funded ratio erosion has caused the employer contribution requirement to increase to \$32 million annually. The actuary for the Minneapolis Police Relief Association is currently recommending a strengthening of the post-retirement mortality assumption which, if approved by the Legislative Commission on Pensions and Retirement, will increase the actuarial accrued liability and unfunded actuarial accrued liability of the plan, will further reduce the plan's funded ratio, and will increase the employer contribution requirement.

Since 1969, when the Minneapolis Police Relief Association was first required to begin being funded on an actuarial basis, the Minneapolis Police Relief Association has sought and received numerous benefit increases, including a service pension and disability benefit change in 1969 (Laws 1969, Chapter 560), a medical insurance authorization in 1975 (Laws 1975, Chapter 428), the addition of a health and welfare benefit in 1980 (Laws 1980, Chapter 607, Article XV), a service pension vesting change in 1987 (Laws 1987, Chapter 372, Article 2), the addition of a second post-retirement adjustment in 1989 (Laws 1989, Chapter 319, Article 19), a survivor benefit change and the addition of a health insurance benefit in 1990 (Laws 1990, Chapter 589, Article 1), a survivor benefit change in 1993 (Laws 1993, Chapter 124), a survivor benefit change in 1994 (Laws 1994, Chapter 590), the addition of optional survivor benefit forms and a post-retirement adjustment change in 1997 (Laws 1997, Chapter 233, Article 4), and the addition of a third post-retirement adjustment in 2000 (Laws 2000, Chapter 461, Article 17). The Minneapolis City Council approved all of these benefit increases and the benefit increases increased the Minneapolis Police Relief Association actuarial accrued liability. Additionally, in 1994, without legislative action and without city approval, the Minneapolis Police Relief Association board of trustees unilaterally redefined the salary of a top-grade patrol officer, on which benefit amounts are based, to include additional compensation items (i.e., overtime pay, shift differentials, dog handler compensation, etc.). The 1994 salary redefinition produced an increase in the Minneapolis Police Relief Association actuarial accrued liability and unfunded actuarial accrued liability. The City of Minneapolis and the Minneapolis Police Relief Association again are litigating the issue of the proper determination of its covered salary figure.

During the period 1987-2004, the Minneapolis Police Relief Association also declined to consolidate with the Public Employees Police and Fire Plan (PERA-P&F) under Minnesota Statutes, Chapter 353A, as 44 other local police and paid firefighter relief associations did. The general thrust of the post-1987 benefit changes appears to have been to dissuade the Minneapolis Police Relief Association membership from pursuing a potential consolidation with PERA-P&F.

Attachment B

Background information on the 1997 Minneapolis Police Relief Association Benefit Legislation

Laws 1997, Chapter 233, Article 4, Sections 1 through 11 and 23, provided various benefit increases and related changes applicable to the Minneapolis Police Relief Association. The benefit increases and related provisions are as follows:

- a. Revised, Expanded Definition of Excess Income. Excess income, currently limited to one percent of fund assets, was expanded to 1.5 percent of fund assets if the funding ratio, according to the most recent actuarial valuation, is greater than 102 percent of fund assets. The first provision increases the definition of "excess income" if the funding ratio exceeds 102 percent. This makes it possible to pay a larger thirteenth check post-retirement adjustment. The thirteenth check is in addition to post-retirement escalation matching the percentage increase over time in first grade patrol officer salary. (Laws 1997, Chapter 233, Article 4, Section 1.)
- b. Expanded Thirteenth Check. The Minneapolis Police Relief Association thirteenth check procedure was revised to permit a distribution to retirees of 1.5 percent of plan assets, rather than 0.5 percent of plan assets, if the most recent actuarial valuation shows a funding ratio of at least 102 percent. (Laws 1997, Chapter 233, Article 4, Sections 8 to 10.)
- c. Increase in Service Pensions; Contingent upon Funding Ratio. If the funding ratio according to the most recent actuarial valuation is less than 90 percent, service pensions were to be computed under rates permitted in existing law: 8.0 units if the individual has five years of service, increasing by 1.6 units per year of additional service, up to a maximum of 40 units.

If the funding ratio according to the most recent valuation is greater than 90 percent, the service pensions payable with twenty years or more years of service were increased by two units, creating a new maximum of 42 units at twenty-five years of service. This increase applied to active members, deferred members, and service pensioners. (Laws 1997, Chapter 233, Article 4, Section 5.)

- d. Revisions in Authorized Fund Disbursement Provision. The Minneapolis Police Relief Association authorized fund disbursement provision (Minnesota Statutes, Section 423B.07) was amended to include general authority to pay hospital and medical insurance plan administrative expenses, and eliminated specific language which had authorized payment, in addition to any other benefits payable under law, of a one unit per month health and welfare benefit. This section was to be effective at the same time as the increase in the service pension in (c) above. (Laws 1997, Chapter 233, Article 4, Section 4.)
- e. Waiver of Minneapolis Employer Amortization Contribution, Certain Cases. If the Minneapolis Police Relief Association funding ratio is greater than 102 percent and then drops below 100 percent, the city was not required to levy a property tax to amortize the unfunded obligation unless there are two successive valuations indicating unfunded liabilities. (Laws 1997, Chapter 233, Article 4, Section 3.)
- f. Increase in Non-Service Disability Pension. If the Minneapolis Police Relief Association has a funded ratio of 90 percent or greater in the most recent valuation, the non-duty disability benefit, currently two units for five years of service and an additional two units for each full year of service over five and less than 20, was increased to four units for five years of service and two units for each full year of service over five and less than twenty. (Laws 1997, Chapter 233, Article 4, Sections 5 and 23.)
- g. Increase in Duty Disability Pension. If the Minneapolis Police Relief Association has a funded ratio of 90 percent or greater in the most recent valuation, the duty disability benefit was increased from 32 units to 34 units. (Laws 1997, Chapter 233, Article 4, Sections 5 and 23.)
- h. Definition of Actuarial Equivalent. A definition of actuarial equivalence was added to the Minneapolis Police Relief Association plan definitions provision. (Laws 1997, Chapter 233, Article 4, Section 2.)
- i. Optional Annuities Created. Optional annuities were created for retirees and disabilitants. The options were 50 percent, 75 percent, and 100 percent joint-and-survivor annuities without a bounce-back; and 50 percent, 75 percent, and 100 percent joint-and-survivor annuities with a bounce-back. These optional annuity forms must be actuarially equivalent to the service pension and automatic survivor coverage otherwise payable to the retiring member and the member's beneficiaries. The optional annuities are irrevocable. Current retirees and disabilitants had 60 days from the effective date to elect an optional annuity rather than the normal retirement annuity. (Laws 1997, Chapter 233, Article 4, Section 6.)

- j. Expansion of Eligibility for Surviving Spouse Benefit. A surviving spouse who would not be eligible for survivor benefits (because the person was not legally married to the deceased covered member, was not married at the time the employee was on the payroll, or did not reside with the member; or in the case of a deceased service pensioner or deferred pensioner, was not married at least one year prior to retirement) was made eligible for survivor benefits if, at the time of death, the surviving spouse was married to the decedent for at least five years and was residing with the decedent at the time of death. If the surviving spouse, made eligible for a benefit due to this expansion of eligibility, was younger than the deceased, the surviving spouse benefit must be actuarially equivalent to the benefit payable to a spouse of the same age as the deceased. The provision was effective retroactive to July 1, 1996. (Laws 1997, Chapter 233, Article 4, Sections 7 and 23.)
- k. Increase in Surviving Spouse Benefit and Family Maximum Benefit. The surviving spouse benefit for survivors of deceased active members, disabilitants, service pensioner, or deferred pensioners was increased from 21 units to 22 units, and the family maximum benefit was increased from 40 to 41 units. The provision was effective retroactive to July 1, 1996. (Laws 1997, Chapter 233, Article 4, Sections 7 and 23.)
- l. Revised Actuarial Valuation Deadline. The actuarial valuation must be completed by May 1 of each year. (Laws 1997, Chapter 233, Article 4, Section 11.)
- m. Added Sources of Funding, Minneapolis Police Relief Association Special Fund. All rewards, money, or proceeds from sales of seized or unclaimed property acquired by any Minneapolis police officer, rather than by any Minneapolis police officer who is a relief association active member, were required to be placed in the relief association special fund. (Laws 1997, Chapter 241, Article 9, Sections 2 and 3.)

Attachment C

Background information on the 2005 Minneapolis Police Relief Association Benefit Legislation

First Special Session Laws 2005, Chapter 8, Articles 1, 10, and 11, included various benefit changes and related provisions applicable to the Minneapolis Police Relief Association. The benefit changes and related provisions are as follows:

1. Clarification of Salary Definition. A provision was added to the plan indicating that covered salary for the Minneapolis Police Relief Association is subject to applicable federal law limitations on salary for pension purposes. (Laws 2005, First Special Session, Chapter 8, Article 1, Section 28.)
2. Exemption/Non-Garnishment Language Moved to General Provision. Language prohibiting garnishment of benefits is added to Minnesota Statutes, Chapter 356, Retirement Systems, Generally, and similar language was deleted in the Minneapolis Police Relief Association chapter, replaced by a reference to the uniform provision added to Chapter 356. (Laws 2005, First Special Session, Chapter 8, Article 10, Section 77.)
3. Full-Funding Date Extension to 2020. The full funding date was extended from December 31, 2010, to December 31, 2020. (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 1 and 3.)
4. Board Continuation Provision Revised. The Minneapolis Police Relief Association fund will become a city trust fund when there are 225 or fewer remaining members (active, retired, and or survivors), rather than fewer than 100. (Laws 2005, First Special Session, Chapter 8, Article 11, Section 9.)
5. Revised Service Pension Schedule, Benefit Enhancement. The service pension schedule applicable when the funding ratio is less than 90 percent was stricken; making the highest schedule applicable under all funding conditions, and the pension amounts applicable in that schedule for 20 or more years of service credit were increased by one unit, with the increase phased in over two years (the 25-year pension was increased from 42 units to 42.5 units retroactively to January 1, 2005, and was increased to 43 units on January 1, 2006). Those members who selected joint and survivor benefits must have their pensions increased by comparable amounts. (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 10 and 11.)
6. Revised Survivor Benefits, Benefit Enhancement. The survivor benefit for survivors of officers who took the automatic survivor benefit option was increased by one-half unit (from 22 units to 22.5 units) through December 31, 2005, and by another half unit (from 22.5 units to 23 units) on January 1, 2006. (Laws 2005, First Special Session, Chapter 8, Article 11, Section 12.)

by raising all surviving spouses by one and a half percent at the five year amount to six (6) units with an accrual of an additional one-tenth (-.1) of a unit or one entire unit for each of the next fifteen years. So at 20 years, a surviving spouse was entitled to 22 units; 21 units on the schedule, plus the one unit health and medical benefit.

In 1993, the fund came back to the Legislature and clarified that the maximum benefit on the vesting schedule was 21 units after 20 years, exclusive of the health and medical unit. In 1997, as part of the so-called 102% legislation, the fund determined to streamline some provisions of the statute and folded in the one unit for health and medical into the scheduled benefit. In doing this, the legislation increased the maximum of 21 units on the schedule to 22 units but did not say where the unit should be applied. This did not increase benefits to surviving spouses. The change was intended to simply place the one health and medical unit on the schedule. The base unit value was still set at six units after five years and then scaled up for an additional 15 units to a 21 unit scaled benefit at 20 years. However, the statute providing for the surviving spouse benefit simply provided one unit to all surviving spouses whether they were married to a fully vested member or not. No benefits were increased in the 1997 legislation. In hindsight, when the additional health and medical unit was added to the schedule, it should have been added at the maximum level and the base number of units at five years should have been increased from six to seven units.

This drafting error has gone unnoticed since 1997. In 2005, as part of the pension refunding legislation, all members of the association, service pensioners, active members and surviving spouses, received an additional unit. For surviving spouses the legislation added this unit to the scale maximum and raised the level from 22 to 23 units for surviving spouse as was done in 1997. Read literally, the statute now provides for six units for any surviving spouse of a service pensioner who had five years of service with one additional unit for each year of service thereafter. Hence, in order to reach the maximum 23 units, the surviving spouse would have to be married to a member who had at least 22 years of service.

In practice, all surviving spouses of 20 year members have always been entitled to 22 units since 1992. And it was the clear intent of the 2005 legislation to provide all surviving spouses with one additional unit. The fund has several members who retired at 20 years and a group at 21 years of service. Hence, if the statute is read literally, and the legislative background and practice of the MPRA is not understood, someone could argue that those surviving spouses could be in a position to receive a pension less than they anticipate or less than the fund anticipated they would receive. The way to correct this matter would be to raise the base unit level after five years from six to eight units. This would mean that the widow of a service member who had put in 20 years of service would receive a 23 unit pension, the practice the MPRA has been following. Attached is a copy of legislation to clarify this.

1.1 moves to amend H.F. No. 1941; S.F. No. 2036, as follows:

1.2 Page 2, line 27, after "DATE" insert "; BENEFIT OVERPAYMENT RECOVERY"

1.3 Page 2, delete lines 28 to 31 and insert:

1.4 "(a) Section 1 is effective the first day of the month next following the date on which the
1.5 Minneapolis city council and the chief clerical officer of the city of Minneapolis meet the
1.6 requirements under Minnesota Statutes, section 645.021, subdivisions 2 and 3.

1.7 (b) Amounts paid prior to the date specified in paragraph (a) that were in excess of
1.8 the surviving spouse benefit amount set forth in Minnesota Statutes 2006, section 423B.10,
1.9 subdivision 1, paragraph (a), must be recovered by the relief association. The recovery
1.10 may be accomplished by a deduction from future benefit payments, but the period over
1.11 which the deduction may occur may not exceed three years."

1.1 moves to amend H.F. No. 1941; S.F. No., as follows:

1.2 Page 2, line 27, after "DATE" insert "RETROACTIVITY AND PRIOR BENEFIT
1.3 LEVEL RATIFICATION"

1.4 Page 2, line 28, before "Section" insert "(a)"

1.5 Page 2, line 30, after "12" insert "if the Minneapolis city council and the chief
1.6 clerical officer of the city of Minneapolis complete, in a timely manner, compliance with
1.7 Minnesota Statutes, section 645.021, subdivisions 2 and 3" and before "Benefit" insert "
1.8 (b)"

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1941

March 12, 2007

Authored by Kahn, Mullery and Nelson

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

A bill for an act
relating to retirement; clarifying and correcting surviving spouse benefit
provisions of the Minneapolis police relief association; amending Minnesota
Statutes 2006, section 423B.10, subdivision 1.

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

Section 1. Minnesota Statutes 2006, section 423B.10, subdivision 1, is amended to read:

Subdivision 1. **Entitlement; benefit amount.** (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to ~~22.5 units per month until December 31, 2005, and 23~~ units per month beginning on January 1, 2006, if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to six eight units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of ~~22.5 units per month until December 31,~~ ~~2005, and 23~~ units per month beginning on January 1, 2006, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine months after the

2.1 decedent terminated active service in the police department, is entitled to a surviving child
2.2 benefit. The surviving child benefit is equal to eight units per month if the person is the
2.3 surviving child of a deceased active member or disabilitant. The surviving child benefit
2.4 is equal to two units per month, plus an additional four-tenths of one unit per month for
2.5 each year of service to the credit of the decedent in excess of five years, to a maximum of
2.6 eight units, if the person is the surviving child of a deceased service pensioner, deferred
2.7 pensioner, or superannuation pensioner. The surviving child benefit is payable until the
2.8 person attains age 18, or, if in full-time attendance during the normal school year, in a
2.9 school approved by the board of directors, until the person receives a bachelor's degree or
2.10 attains the age of 22 years, whichever occurs first. In the event of the death of both parents
2.11 leaving a surviving child or children entitled to a surviving child benefit as determined in
2.12 this paragraph, the surviving child is, or the surviving children are, entitled to a surviving
2.13 child benefit in such sums as determined by the board of directors to be necessary for
2.14 the care and education of such surviving child or children, but not to exceed the family
2.15 maximum benefit per month, to the children of any one family.

2.16 (c) The surviving spouse and surviving child benefits are subject to a family
2.17 maximum benefit. The family maximum benefit is 41 units per month.

2.18 (d) A surviving spouse who is otherwise not qualified may receive a benefit if the
2.19 surviving spouse was married to the decedent for a period of five years and was residing
2.20 with the decedent at the time of death. The surviving spouse benefit is the same as that
2.21 provided in paragraph (a), except that if the surviving spouse is younger than the decedent,
2.22 the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit
2.23 that would have been paid to the member's spouse had the member been married to a
2.24 person of the same age or a greater age than the member's age before retirement.

2.25 (e) For any surviving spouse who began receiving survivor benefits before January 1,
2.26 2005, the half-unit increase under paragraph (a) is effective retroactive to January 1, 2005.

2.27 Sec. 2. **EFFECTIVE DATE.**

2.28 Section 1 is effective retroactively from the effective date of Laws 1997, chapter
2.29 233, article 4, section 7, and Laws 2005, First Special Session chapter 8, article 11, section
2.30 12. Benefit amounts paid to surviving spouse members previously paid that are consistent
2.31 with section 1 are hereby ratified and confirmed.