



**TO:** Members of the Legislative Commission on Pensions and Retirement

**FROM:** Susan Lenczewski, Executive Director

**RE:** Lump sum pension benefits for volunteer firefighter relief associations:

- Article 7, Section 6, of S.F. 545 (Rosen)/H.F. 565 (O'Driscoll): Increasing the statutory maximums on the amounts used in calculating lump sum pension benefits
- LCPR17-029: VFRAs; Modifying requirements relating to municipal ratification of bylaws' amendments increasing retirement benefits

**DATE:** March 13, 2017

### Introduction

Volunteer firefighter relief associations are established to provide retirement benefits for volunteer firefighters. One type of benefit that can be provided is a lump sum payment upon retirement as early as age 50. The lump sum payment is determined by multiplying years of service by an amount that is specified in the relief association's bylaws. That amount depends on the amount of funding per active firefighter, where funding means the amount of fire state aid received, the amount of any municipal funding provided, and 1/10<sup>th</sup> of the amount of any funding surplus for the most recent three-year period.

Each year, the relief association calculates the amount of funding per active firefighter and determines the maximum lump sum amount it is authorized to establish for the year. The relief association can amend its bylaws to provide a higher benefit level, up to the maximum amounts specified at Minn. Stat. § 424A.02, Subdivision 3(d). The maximum amount applicable to a relief association depends on the average amount of available financing per firefighter. For instance, if the amount of available financing per firefighter in a particular relief association is \$2,270, the maximum lump sum amount the relief association can provide for in its bylaws is \$4,200. If the relief association's bylaws states that its lump sum amount is \$4,200, and a firefighter covered by the relief association retires with 20 years of service, the relief association will pay the firefighter a lump sum payment of \$84,000 as the retirement benefit.

Minn. Stat. § 424A.092, Subdivision 6, governs when a relief association is required to obtain the approval of the municipality with which it is affiliated if the relief association amends its bylaws to increase benefit levels, such as by increasing the lump sum amount. Whether a relief association is required to obtain ratification depends on whether the relief association has a surplus and whether the municipality is required to provide financial support to the relief association.

- **Ratification is required** if the relief association does not have a surplus and the municipality is required to provide financial support.
- **Ratification is not required** if the relief association has a surplus and the municipality is not required to provide financial support.

If a relief association increases benefit levels and does not obtain the approval of the municipality and its funding declines to the point that it cannot support the increased level of benefits, the benefit levels return to the levels set by the bylaws as last approved by the municipality.

Some municipalities make contributions to their relief association even though a contribution is not required.

**Article 7, Section 6, of S.F. 545 (Rosen); H.F. 565 (O’Driscoll)** (included in the omnibus pension bill approved in 2016)

A section included in the omnibus pension bill that was approved by both the House of Representatives and the Senate and vetoed by the governor increased the highest maximum lump sum amount a relief association could specify in its bylaws, for use in calculating lump sum pension benefits, from \$10,000 to \$15,000. The change in the statute is to a table in Minn. Stat. 424A.02, Subdivision 3, which specifies a lump sum amount that corresponds to an average amount of available financing per firefighter. The table has been revised to show maximum amounts that increase in \$100 increments as the average amount of available financing per firefighter increase proportionately. Nothing in current law or in the proposed legislation changes the voluntary, discretionary nature of the maximums. Whether a relief association can establish a particular lump sum amount in its bylaws depends on its funding and whether its municipality has approved the benefit level, if municipality approval is required.

Nothing in Article 7, Section 6, modifies the requirements relating to when a relief association must obtain the approval of its affiliated municipality when the relief association amends its bylaws to increase benefits.

This increase in the maximum amounts was requested during the 2016 legislative session by the relief association for the City of Eden Prairie and the law change initially would have only applied to the Eden Prairie relief association. As of 2015, the Eden Prairie relief association had an average available financing per firefighter of \$10,512, almost double the required amount, and was therefore eligible to, and did, provide the \$10,000 lump-sum maximum. The relief association wanted to increase the lump sum amount even higher, above the \$10,000 maximum currently in the statute, to address other concerns. First, it wanted to attract firefighters to the lump sum benefit, and away from the monthly pension benefit it also offered. Second, it also believed a higher lump sum pension amount would help with enlistment and retention of firefighters.

When the bill was considered by the Pension Commission, it was amended to permit any relief association to use the higher maximums, if the relief association was otherwise eligible to do so. We understand that there are at least two other relief associations that would be eligible for and want to amend their bylaws to pay lump sum pensions based on amounts above \$10,000.

#### **LCPR17-029**

The City of Plymouth recently became concerned about the proposed increase in the maximum amounts permitted for lump sum pensions, after it was approved by the Pension Commission as part of S.F. 545; H.F. 565 (explained above). While the proposed higher maximums was the initial cause of concern, it appears that the root of the City’s concern is that benefit levels can be increased by a relief association without the approval of the affiliated municipality. Representatives of the City of Plymouth expressed

concern that its relief association had recently approved an 18.75% increase in benefit levels and did not intend to seek the City's approval. While City representatives are aware that the pension amount would return to current levels if the relief association's funding cannot sustain the higher pension amount, they believe such a drop in pension benefits places the City in the position of either making higher contributions to prevent the decline in pension benefit or allow the benefit level to drop and risk an exodus of firefighters as a result of declining pension benefits.

LCPR17-029 modifies Minn. Stat. § 424A.092, subdivision 6, to require a relief association to obtain the approval of the affiliated municipality when the relief association proposes to amend its bylaws to increase the pension amount, regardless of whether or not the relief association has a surplus, if the municipality is either required to make contributions *or voluntarily makes contributions* to the relief association. The change to the statute gives municipalities the ratification right if the municipality voluntarily makes a contribution, even though not required to do so. Thus, by making a small voluntary contribution, a municipality will obtain the ratification right when a relief association proposes to amend its bylaws to pay larger lump sum pensions, under the proposed change in law.

Since the City of Plymouth makes voluntary contributions to the relief association, even though not required to do so, under the proposed change in law, its relief association would be required to seek the City's approval of a bylaws amendment that increases benefits.

This change would have broad application and would require relief associations to obtain the approval of the municipality with which the relief association is affiliated in circumstances that would not require municipality approval under current law.