



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Rachel Barth, Deputy Director

RE: S.F. 26 (Sparks); H.F. 11 (Poppe): Austin Volunteer Firefighter Relief Association;
Permitting alternative allocation of fire state aid for the City of Austin

DATE: March 13, 2017

Background Information

Generally, statute requires that all fire state aid a municipality receives must be transmitted to the affiliated volunteer firefighter relief association (VFRA) if one exists. Before 2013, Minn. Stat. § 353A.10, Subd. 6, provided an exception to this requirement for municipalities with a paid firefighter relief association that had merged into the Public Employees Police and Fire Retirement Plan (“PERA-P&F”). Under that exception, eligible municipalities were able to allocate an appropriate portion of fire state aid to help fund any municipal contributions owed to PERA-P&F due to the merger.

By 2013, all paid firefighter relief associations that could have merged into PERA-P&F. Further, by that time any municipal contributions owed due to a merger had been paid off. As a result, a clean-up bill that was vetted by stakeholders and approved by the Pension Commission was enacted in 2013. The clean-up bill repealed statutes determined to be obsolete because they related to paid relief association mergers. All of Chapter 353A, including the exception under Section 353A.10, Subd. 6, was repealed because, according to staff materials, the original intent behind the chapter had been satisfied. So, going forward, municipalities were no longer permitted to continue allocating fire state aid between the affiliated VFRA and PERA-P&F.

The City of Austin had a paid firefighter relief association merge into the PERA-P&F plan in the late 1990s and was therefore allowed to allocate fire state aid between the VFRA and PERA-P&F employer contributions. The City still has a combination fire department. A combination fire department has both career firefighters who have a pension under PERA-P&F and volunteer (or paid on call) firefighters who have service pensions under a VFRA or the Public Employees Retirement Association (PERA) Voluntary Statewide Volunteer Firefighter Retirement Plan (“PERA-SVFRP”).

At the time of the 2013 repeal, the City appeared to be the only municipality that still utilized Section 353A.10, Subd. 6. The City, unaware that the provision had been repealed, continued to allocate a portion of fire state aid and supplemental state aid to pay employer contributions on behalf of firefighters covered by PERA-P&F. The City and VFRA members have an agreement on how the fire state aid and supplemental state aid is allocated, which is codified in the VFRA bylaws.

Despite the repeal and the City’s ongoing allocation of fire state aid, the Office of the State Auditor (“OSA”) continued to certify that the VFRA was eligible to receive fire state aid for 2013, 2014, and 2015. Certification to receive fire state aid means that a VFRA is in compliance with all applicable statutes. On

March 31, 2016, the OSA sent the City a notification that Section 353A.10, Subdivision 6, had been repealed in 2013. The notice informed the City that, as a result of the repeal, the City did not have statutory authority to allocate fire state aid and supplemental state aid, and the City owed the VFRA for the state aid, totaling \$214,650, for 2013, 2014, and 2015 that had been paid to PERA-P&F. On September 1, 2016, the OSA sent the City notification that until the City paid the amounts owed to the VFRA, the OSA would not be able to certify that the VFRA is eligible to receive 2016 fire state aid.

The City of Austin, with the support of the Austin VFRA, is now requesting special legislation to allow it to continue allocating fire state aid between the Austin VFRA and PERA-P&F and to forgive the \$214,605 debt in order to continue receiving fire state aid.

Summary of S.F. 26 (Sparks); H.F. 11 (Poppe)

The main components of the bill are as follows:

1. Permits the City of Austin to allocate a portion of fire state aid to pay employer contributions on behalf of firefighters covered by PERA-P&F rather than pay the full amount to the VFRA as required under current statute.
2. Requires that the City transmit all supplemental state aid it receives to the VFRA. This requirement reaffirms current law and will not change the amounts that the City currently pays to the VFRA and PERA-P&F.

Under Minn. Stat. § 423A.022, Subd. 2, which was enacted in 2013, \$15.5 million is annually appropriated to police and fire entities. Thirty-five percent of the appropriation is allocated to municipalities with volunteer firefighters. The statute is very clear that any portion of supplemental state aid a municipality receives is intended to go towards the affiliated VFRA.

3. Implements a retroactive effective date to January 1, 2013, in order to relieve the City from having to repay the \$214,605 debt dating back to 2013 that is owed to the VFRA under current law.

Potential Amendment S0026-1A for Commission Consideration

S0026-1A amends S.F. 26; H.F. 11 by making the following changes:

1. Establishes a Fire State Aid Work Group to recommend if municipalities across the state that have both career and volunteer firefighters should be given the ability to allocate fire state aid between PERA-P&F employer contributions and the VFRA. The Work Group will be convened by PERA and its members will consist of stakeholders who represent municipalities, firefighters, and governmental offices that work with such stakeholders.
2. Provides clarifying language to ensure that the \$214,605 debt the City owes the VFRA under current law is forgiven.
3. Repeals the City of Austin's ability to allocate fire state aid on July 1, 2018. The intent behind the repeal is, depending on the work group's report, the City of Austin will either be included in general legislation to allow the allocation and the special legislation will not be needed or, if the work group recommends against such allocation, Austin can decide whether to come back to the Pension Commission with special legislation to continue the allocation.

Discussion and Analysis

S.F. 26 (Sparks); H.F. 11 (Pope) and S0026-1A raise the following pension and public policy issues:

1. Intent of Fire State Aid. The intent behind the allocation exception under Section 353A.10, Subd. 6, was to help defray some of the costs of a paid firefighter relief association merging into PERA-P&F. Now that all merger costs have been paid, the original intent behind the exception has been satisfied. However, there could be other compelling reasons to allow a municipality with a VFRA to use a portion of fire state aid to pay other obligations, such as increasing PERA-P&F employer contributions. The Fire State Aid Work Group implemented under the -1A amendment can provide guidance about the intent behind fire state aid and whether it is appropriate to allocate fire state aid for other uses.
2. General vs. Special Legislation. The Pension Commission and the Legislature favor general legislation over special legislation. General legislation is preferable when the issue the proposed legislation addresses affects more than one entity. According to recent data, there may be at least 74 combination fire departments in Minnesota. This data does not include municipalities where volunteer firefighters are members of PERA-SVFRP, so there may be even more combination fire departments.

Combination fire departments have both career and volunteer (or paid on call) firefighters. It is likely that other municipalities may want the option to allocate fire state aid to pay PERA-P&F employer contributions. It will be helpful to have a recommendation from the Fire State Aid Work Group regarding the appropriateness of allocating fire state aid and, if it is appropriate, how best to implement a system that benefits both the municipality and the firefighters.

3. Impact on Stakeholders. The City of Austin and the firefighters have an agreement about how to allocate fire state aid that appears to satisfy all of the stakeholders. Implementing the proposed legislation without the amendment will allow the City to continue allocating the fire state aid the same way it has for at least 20 years. The proposed legislation will also set a precedent that other municipalities with combination fire departments may want to pursue. However, those other municipalities do not have an established, agreed-upon system like Austin does that ensures both the municipality and firefighters are satisfied and protected if fire state aid is allocated to PERA-P&F. The Fire State Aid Work Group established under the -1A amendment can recommend an appropriate procedure that must be followed in implementing an allocation of fire state aid with which all stakeholders can feel comfortable.