

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4123

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DATE	D-PG	OFFICIAL STATUS
03/09/2020	5339	Introduction and first reading Referred to State Government Finance and Policy and Elections See SF3808, Art. 12

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighters relief associations; relief association

1.3 dissolution and retirement plan termination; amending Minnesota Statutes 2018,

1.4 section 424B.01, by adding subdivisions; proposing coding for new law in

1.5 Minnesota Statutes, chapter 424B; repealing Minnesota Statutes 2018, sections

1.6 424B.20; 424B.21.

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

1.8 Section 1. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 3a. **Defined benefit plan.** "Defined benefit plan" means a retirement plan that

1.11 provides a retirement benefit that is a lump sum, the amount of which is determined by

1.12 multiplying the applicable lump-sum service pension amount under section 424A.02,

1.13 subdivision 3, paragraph (d), by years of service, or a monthly pension, the amount of which

1.14 is determined by multiplying the applicable monthly pension amount under section 424A.02,

1.15 subdivision 3, paragraph (c), by years of service. A defined benefit plan may provide both

1.16 a lump sum and a monthly pension.

1.17 Sec. 2. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to

1.18 read:

1.19 Subd. 3b. **Defined benefit relief association.** "Defined benefit relief association" means

1.20 a relief association that has established and administers a retirement plan that is a defined

1.21 benefit plan.

2.1 Sec. 3. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 3c. **Defined contribution plan.** "Defined contribution plan" means a retirement
2.4 plan that provides a retirement benefit based on the member's individual account balance.

2.5 Sec. 4. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.6 read:

2.7 Subd. 3d. **Defined contribution relief association.** "Defined contribution relief
2.8 association" means a relief association that has established and administers a retirement
2.9 plan that is a defined contribution plan.

2.10 Sec. 5. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.11 read:

2.12 Subd. 4a. **Member.** (a) "Member" means a person who:

2.13 (1) is a member of a fire department or independent nonprofit firefighting corporation;

2.14 (2) has been credited with at least one year of service toward a retirement benefit under
2.15 the retirement plan of a relief association that is affiliated with the fire department or
2.16 independent nonprofit firefighting corporation; and

2.17 (3) has not received a distribution of the person's benefit from the retirement plan or, if
2.18 the retirement plan provides a benefit that is a monthly pension, has not begun to receive
2.19 the monthly pension.

2.20 (b) A member may be an active firefighter, an inactive firefighter, or a former firefighter
2.21 who has a benefit under the retirement plan but has not become eligible to receive the benefit.

2.22 Sec. 6. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
2.23 read:

2.24 Subd. 4b. **Other benefit recipient.** "Other benefit recipient" means a person who is
2.25 entitled to receive all or a portion of a member's benefit under a retirement plan due to the
2.26 person having one of the following relationships to the member:

2.27 (1) the member's surviving spouse;

2.28 (2) the member's former spouse who is the alternate payee under a state domestic relations
2.29 order that meets the requirements of section 414(p) of the Internal Revenue Code or who

3.1 is a recipient of a court-ordered distribution of marital property, as provided in section
3.2 518.58; or
3.3 (3) a nonspousal beneficiary of the member.

3.4 Sec. 7. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
3.5 read:

3.6 Subd. 4c. **Relief association.** (a) "Relief association" or "volunteer firefighter relief
3.7 association" means a nonprofit corporation incorporated under or governed by chapter 317A
3.8 that receives and manages public money to provide retirement benefits for individuals
3.9 providing the governmental services of firefighting and emergency first response, is subject
3.10 to chapter 424A, and is affiliated with:

3.11 (1) a fire department established by municipal ordinance;

3.12 (2) an independent nonprofit firefighting corporation incorporated under chapter 317A;

3.13 or

3.14 (3) a fire department operated as or by a joint powers entity.

3.15 (b) Relief association or volunteer firefighters relief association does not mean the
3.16 voluntary statewide volunteer firefighter retirement plan governed by chapter 353G.

3.17 Sec. 8. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
3.18 read:

3.19 Subd. 5a. **Retirement benefit.** "Retirement benefit" means the benefit to which a member
3.20 is entitled under a retirement plan.

3.21 Sec. 9. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision to
3.22 read:

3.23 Subd. 5b. **Retirement plan.** "Retirement plan" means the defined benefit plan or defined
3.24 contribution plan established and administered by a relief association.

3.25 Sec. 10. Minnesota Statutes 2018, section 424B.01, is amended by adding a subdivision
3.26 to read:

3.27 Subd. 7. **Surplus.** "Surplus" means the amount by which the assets in a defined benefit
3.28 plan exceed accrued liabilities.

4.1 Sec. 11. [424B.22] RELIEF ASSOCIATION DISSOLUTION AND RETIREMENT
4.2 PLAN TERMINATION.

4.3 Subdivision 1. **Application.** (a) Notwithstanding any laws to the contrary, this section
4.4 applies to:

4.5 (1) the termination of a retirement plan established and administered by a relief
4.6 association, whether or not the relief association is also dissolved or eliminated; and

4.7 (2) the dissolution of a relief association and no consolidation with another relief
4.8 association under sections 424B.01 to 424B.10 is applicable.

4.9 (b) To terminate a retirement plan, the board of trustees of the relief association must
4.10 comply with subdivisions 3, 5 to 10 and, if desired, subdivision 4.

4.11 (c) To dissolve a relief association, the board of trustees of the relief association must:

4.12 (1) terminate the retirement plan in accordance with this section;

4.13 (2) settle all legal obligations determined under subdivision 5;

4.14 (3) transfer records to the municipality and notify state officers as required by subdivision
4.15 11; and

4.16 (4) comply with the requirements governing dissolution of nonprofit corporations under
4.17 chapter 317A.

4.18 Subd. 2. **Involuntary dissolution and termination.** (a) A relief association is dissolved
4.19 and the retirement plan administered by the relief association is terminated automatically
4.20 if:

4.21 (1) the fire department affiliated with a relief association is dissolved by action of the
4.22 governing body of the municipality in which the fire department is located or by the
4.23 independent nonprofit firefighting corporation, whichever applies; or

4.24 (2) the fire department affiliated with a relief association has terminated the employment
4.25 or services of all active firefighters covered by the relief association.

4.26 (b) An involuntary termination of a relief association under this subdivision is effective
4.27 as of the end of the calendar year in which the fire department is dissolved or the termination
4.28 of employment or services of all active firefighters occurs.

4.29 (c) The retirement plan administered by a relief association is terminated automatically
4.30 if the relief association is dissolved, effective on the date of the dissolution of the relief
4.31 association.

5.1 Subd. 3. Retirement plan termination date and full vesting. (a) The effective date of
5.2 termination of a retirement plan is the earlier of the effective date of the dissolution of the
5.3 relief association or the end of the calendar year, unless the board of trustees of the relief
5.4 association approves a different termination date.

5.5 (b) As of the earlier of the retirement plan termination date or the date on which the
5.6 employment or services of the active firefighters is terminated, each member becomes fully
5.7 (100 percent) vested in the member's retirement benefit under the retirement plan,
5.8 notwithstanding bylaws or laws to the contrary.

5.9 Subd. 4. Benefit increase. (a) Notwithstanding section 424A.02, subdivision 10, the
5.10 board of trustees of a relief association may increase the benefit amount under a defined
5.11 benefit relief association without the consent of the affiliated municipality or independent
5.12 nonprofit firefighting corporation, as provided in this subdivision.

5.13 (b) In connection with the termination of a retirement plan that is a defined benefit plan,
5.14 the board of trustees of the defined benefit relief association may approve an amendment
5.15 to the bylaws of the relief association to increase the lump-sum or monthly pension amount
5.16 up to 125 percent of the applicable maximum in section 424A.02. The amount by which
5.17 the lump-sum or monthly pension amount is increased must not cause the liabilities of the
5.18 retirement plan to exceed the value of the assets, after taking into account full vesting as
5.19 required under subdivision 3 and any administrative expenses.

5.20 (c) The board of trustees shall specify whether the benefit increase will apply to only
5.21 members active as of the date of the termination of the retirement plan or whether the benefit
5.22 increase will apply to all members, including members who are not active as of the plan
5.23 termination date.

5.24 Subd. 5. Determination of assets and liabilities. (a) The board of trustees shall determine
5.25 the following as of the date of termination of the retirement plan:

5.26 (1) the fair market value of the assets of the special fund;

5.27 (2) the present value of each member's accrued benefit, taking into account full vesting
5.28 under subdivision 3 and any increased lump-sum or monthly benefit level approved under
5.29 subdivision 4; and

5.30 (3) administrative expenses incurred or reasonably anticipated to be incurred through
5.31 the date on which all retirement benefits have been distributed or transferred.

5.32 (b) The board of trustees shall compile a schedule of the members to whom a benefit or
5.33 pension is or will be owed; any other benefit recipient to whom a benefit is owed; the amount

6.1 of the benefit or pension payable based on the applicable bylaws, state law, and the service
6.2 rendered to the date of termination; and the date on which the benefit or pension would first
6.3 be payable under the bylaws of the relief association and state law.

6.4 (c) If the relief association is dissolving, in addition to the determination under paragraph
6.5 (a) for the retirement plan, the board of trustees shall determine, as of the effective date of
6.6 the dissolution of the relief association, the legal obligations of the general fund of the relief
6.7 association.

6.8 Subd. 6. **Investment of assets while termination is pending.** To minimize the risk of
6.9 investment losses between the termination date and the date benefits will begin to be
6.10 distributed, the board of trustees shall invest the assets in the special fund in low-risk
6.11 investments, to the extent consistent with its fiduciary duty under chapter 356A.

6.12 Subd. 7. **Allocation of surplus.** (a) If the retirement plan is a defined benefit plan and
6.13 if, after completing the determination of assets, liabilities, and administrative expenses under
6.14 subdivision 5, there is a surplus, the board of trustees shall transfer to the affiliated
6.15 municipality the lesser of (1) the amount of the surplus, or (2) the sum of all required
6.16 contributions, without investment earnings or interest thereon, made by the municipality to
6.17 the relief association during the year in which the termination of the retirement plan occurs
6.18 or during the preceding nine years.

6.19 (b) If the affiliated municipality did not make any required contributions to the relief
6.20 association during the current or preceding nine years or if, after the transfer described in
6.21 paragraph (a), there is surplus remaining, the relief association and the municipality will
6.22 mutually agree on an allocation between them of the remaining surplus.

6.23 (c) If, within 180 days of the date of termination of the retirement plan, the municipality
6.24 and relief association have not reached an agreement on the allocation of the surplus under
6.25 paragraph (b), then the surplus shall be transferred to the relief association.

6.26 (d) Any surplus transferred to the relief association under paragraph (c) shall be allocated
6.27 among all members eligible to share in the surplus in the same proportion that the present
6.28 value of the accrued benefit for each eligible member bears to the total present value of the
6.29 accrued benefits of all members eligible to share in the surplus, and each eligible member's
6.30 benefit, as determined under subdivision 5, paragraph (a), clause (2), shall be increased by
6.31 the member's share of the surplus. The board of trustees shall determine eligibility to share
6.32 in the surplus, which may include any of the following in addition to firefighters active as
6.33 of the date of plan termination:

6.34 (1) inactive firefighters;

7.1 (2) former firefighters with a deferred benefit under the retirement plan; and

7.2 (3) firefighters who retired within the last three years or such other number of years as
7.3 determined by the board of trustees.

7.4 If the board of trustees decides to include retired firefighters in the allocation of the surplus,
7.5 the board of trustees shall modify the method for allocating the surplus to take into account
7.6 the retired firefighters.

7.7 (e) Any amount of surplus transferred to the affiliated municipality under this subdivision
7.8 may only be used for the purposes described in section 424A.08, paragraph (a) or (b).

7.9 Subd. 8. **Immediate distribution of retirement benefits and payment of all other**
7.10 **obligations.** (a) The board of trustees shall liquidate the assets of the special fund and pay
7.11 retirement benefits and administrative expenses under the retirement plan within 210 days
7.12 after the effective date of the termination of the retirement plan. The board of trustees shall
7.13 liquidate the assets of the general fund and satisfy any legal obligations of the general fund
7.14 of the relief association and otherwise wind-up the general fund in accordance with applicable
7.15 state and federal law.

7.16 (b) If the retirement plan is a defined benefit plan that pays lump-sum benefits or a
7.17 defined contribution plan, without regard to whether the member has attained age 50, each
7.18 member and other benefit recipient shall be permitted to elect an immediate distribution or
7.19 a direct rollover of the member's benefit to an eligible retirement plan as permitted under
7.20 section 356.635, subdivisions 3 to 7, if the benefit is an eligible rollover distribution as
7.21 defined in section 356.635, subdivisions 4 and 5.

7.22 (c) If the retirement plan is a defined benefit plan that pays monthly pension benefits,
7.23 the board of trustees shall purchase an annuity contract under section 424A.015, subdivision
7.24 3, for each member or other benefit recipient. The annuity contract shall name the member
7.25 or other benefit recipient as the insured and shall be distributed to the member or other
7.26 benefit recipient.

7.27 (d) If the board of trustees cannot locate a member or other benefit recipient or receives
7.28 no response to an offer to distribute a retirement benefit, the board of trustees shall make a
7.29 diligent effort to obtain a current address or other contact information as follows:

7.30 (1) send a notice to the address on file for the member or other benefit recipient using
7.31 certified mail;

7.32 (2) check with the Minnesota State Fire Department Association, the municipality, and
7.33 any other employer of the member;

8.1 (3) check with the member's designated beneficiary on file with the relief association;
 8.2 and

8.3 (4) use internet search tools that are free of charge.

8.4 (e) If the board of trustees is unable to locate the member or other benefit recipient after
 8.5 taking all of the actions described in paragraph (d), the board of trustees shall set up an
 8.6 individual retirement account in the name of the member or other benefit recipient and
 8.7 transfer to the individual retirement account:

8.8 (1) the member's account balance if the retirement plan is a defined contribution plan;

8.9 (2) the member's lump sum benefit if the retirement plan is a defined benefit plan that
 8.10 pays a lump sum; or

8.11 (3) an amount equal to the present value of the member's benefit if the retirement plan
 8.12 is a defined benefit plan that pays a monthly annuity.

8.13 Subd. 9. **Supplemental benefits.** Within 60 days after the distribution of benefits under
 8.14 subdivision 8, the municipality or independent nonprofit firefighting corporation with which
 8.15 the fire department is affiliated shall pay supplemental benefits under section 424A.10 to
 8.16 each member and survivor who satisfies the requirements of section 424A.10, subdivision
 8.17 2, regardless of the age of the member. The commissioner of revenue shall reimburse the
 8.18 municipality or independent nonprofit firefighting corporation for all supplemental benefits
 8.19 paid as provided in section 424A.10, subdivision 3.

8.20 Subd. 10. **Notice of retirement plan termination.** The board of trustees shall notify
 8.21 the commissioner of revenue and the state auditor that the retirement plan is being terminated
 8.22 no later than 30 days before the effective date of the termination of the retirement plan and
 8.23 provide any information the commissioner or state auditor may require.

8.24 Subd. 11. **Wind-up of the relief association.** The relief association is dissolved effective
 8.25 on the date that the board of trustees of the relief association completes the following actions:

8.26 (1) prepares and files with the state auditor final audited financial statements, pursuant
 8.27 to section 424A.014, subdivision 1;

8.28 (2) liquidates the general fund as needed to settle the legal obligations of the general
 8.29 fund as determined under subdivision 5;

8.30 (3) transfers the records of the relief association to the chief administrative officer of
 8.31 the affiliated municipality; and

9.1 (4) notifies the commissioner of revenue, the state auditor, and the secretary of state of
9.2 the dissolution no later than 30 days before the effective date of the dissolution.

9.3 Sec. 12. **REPEALER.**

9.4 Minnesota Statutes 2018, sections 424B.20; and 424B.21, are repealed.

9.5 Sec. 13. **EFFECTIVE DATE.**

9.6 Sections 1 to 12 are effective the day following final enactment.

424B.20 DISSOLUTION WITHOUT CONSOLIDATION.

Subdivision 1. **Applicable dissolutions.** This section applies if the fire department associated with a volunteer firefighters relief association is dissolved or eliminated by action of the governing body of the municipality in which the fire department was located or by the independent nonprofit firefighting corporation, whichever applies, and no consolidation with another volunteer firefighters relief association under sections 424B.01 to 424B.10 is sought, or if a volunteer firefighters relief association is dissolved or eliminated with municipal approval, but the fire department associated with the volunteer firefighters relief association is not dissolved or eliminated, and no consolidation with another volunteer firefighters relief association under sections 424B.01 to 424B.10 is applicable.

Subd. 2. **Procedures.** As part of the dissolution process, all legal obligations of the relief association other than service pensions and benefits must be settled under subdivision 3, a benefit trust must be established under subdivision 4, and the affairs of the relief association must be concluded under subdivision 5.

Subd. 3. **Settlement of nonbenefit legal obligations.** (a) Prior to the effective date of the dissolution of the volunteer firefighters relief association established by the relief association board of trustees, the board shall determine the following:

(1) the fair market value of the assets of the special fund;

(2) the total amount of the accounts payable and other legal obligations of the special fund, excluding the accrued liability of the special fund for service pensions and other benefits; and

(3) the accrued liability of the special fund for service pensions and other benefits payable or accrued under the applicable bylaws of the relief association and chapter 424A.

(b) On or before the effective date of the dissolution of the volunteer firefighters relief association, the board shall liquidate sufficient special fund assets to pay the legal obligations of the special fund and must settle those legal obligations.

(c) On or before the effective date of the dissolution of the volunteer firefighters relief association, the board shall settle the legal obligations of the general fund of the relief association.

Subd. 4. **Benefit trust fund establishment.** (a) After the settlement of nonbenefit legal obligations of the special fund of the volunteer firefighters relief association under subdivision 3, the board of the relief association shall transfer the remaining assets of the special fund, as securities or in cash, as applicable, to the chief financial official of the municipality in which the associated fire department was located if the fire department was a municipal fire department or to the chief financial official of the municipality with the largest population served by the fire department if the fire department was an independent nonprofit firefighting corporation. If the fire department was a joint powers entity, the remaining assets of the special fund shall be transferred to the chief financial official of the municipality designated as the fiscal agent in the joint powers agreement or, if the agreement does not designate a municipality as the fiscal agent, the remaining assets of the special fund shall be transferred to the chief financial official of the municipality with the largest population served by the joint powers fire department. The board shall also compile a schedule of the relief association members to whom a service pension is or will be owed, any beneficiary to whom a benefit is owed, the amount of the service pension or benefit payable based on the applicable bylaws and state law and the service rendered to the date of the dissolution, and the date on which the pension or benefit would first be payable under the bylaws of the relief association and state law.

(b) The municipality receiving the remaining assets of the special fund of a volunteer firefighters relief association that is dissolving under this section shall establish a separate account in the municipal treasury which must function as a trust fund for members of the volunteer firefighters relief association and their beneficiaries to whom the volunteer firefighters relief association owes a service pension or other benefit under the bylaws of the relief association and state law. Upon proper application, on or after the initial date on which the service pension or benefit is payable, the municipal treasurer shall pay the pension or benefit due, based on the schedule prepared under paragraph (a) and the other records of the dissolved relief association. The trust fund under this section must be invested and managed consistent with chapter 356A and section 424A.095. Upon payment of the last service pension or benefit due and owing, any remaining assets in the trust fund cancel to the general fund of the municipality or, if the fire department was a joint powers entity, any remaining assets in the trust fund cancel to the general fund of each municipality that was a contracting party to the joint powers agreement as specified in the joint powers agreement. If the joint powers agreement does not specify how the remaining assets are to be distributed among the

contracting parties, each of the contracting parties shall receive a pro rata share of the remaining assets based on the proportion of total operating contributions each contracting municipality made to the joint powers entity over the most recent ten calendar years. If the special fund of the volunteer firefighters relief association had an unfunded actuarial accrued liability upon dissolution, the municipality is liable for that unfunded actuarial accrued liability. If the fire department was a joint powers entity, the contracting municipalities are liable for their share of the unfunded actuarial accrued liability as specified in the joint powers agreement. If the joint powers agreement does not specify liability for any unfunded actuarial accrued liability, the contracting municipalities are liable for their pro rata share of the unfunded actuarial accrued liability based on the proportion of total operating contributions each contracting municipality made to the joint powers entity over the most recent ten calendar years.

Subd. 4a. Disposition of surplus assets upon dissolution of certain volunteer firefighters relief associations. Notwithstanding any provision to the contrary in subdivision 4, if a volunteer firefighters relief association provides a lump-sum service pension equal to \$9,500 or more for each year of service as of June 1, 2018, upon dissolution under this section and payment of the last service pension or benefit due and owing, any remaining assets in the trust fund cancel as follows:

(1) if the municipality was required to make contributions to the relief association under chapter 424A at any time during the ten years preceding June 1, 2018, the remaining assets cancel to the general fund of the municipality; or

(2) if the municipality was not required to make contributions to the relief association under chapter 424A at any time during the ten years preceding June 1, 2018, the remaining assets cancel to the general fund of the state.

Subd. 5. Relief association affairs wind-up. Upon dissolution, the board of trustees of the volunteer firefighters relief association shall transfer the records of the relief association to the chief administrative officer of the applicable municipality. The board shall also notify the commissioner of revenue, the state auditor, and the secretary of state of the dissolution within 30 days of the effective date of the dissolution.

424B.21 ANNUITY PURCHASES UPON DISSOLUTION.

The board of trustees of a volunteer firefighters relief association that is scheduled for dissolution may purchase annuity contracts under section 424A.015, subdivision 3, instead of transferring special fund assets to a municipal trust fund under section 424B.20, subdivision 4. Payment of an annuity for which a contract is purchased may not commence before the retirement age specified in the relief association bylaws and in compliance with section 424A.016, subdivision 2, or 424A.02, subdivision 1. Legal title to the annuity contract transfers to the municipal trust fund under section 424B.20, subdivision 4.