

HF 3870 (Nelson, M.); SF 3547 (Rosen): Volunteer Firefighters; Allocation of Fire State Aid between Fire Relief Associations and Municipalities

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Introduction

- Affected Plan:** Volunteer Fire Relief Associations
- Laws Amended:** Minnesota Statutes, Section 477B.04; establishes New Section 477B.042
- Brief Description:** The bill authorizes municipalities¹ with both career and volunteer firefighters to enter into an agreement with its fire relief association, which permits the municipality to use fire state aid to pay employer contributions. This is an updated version of the Fire State Aid Work Group's recommendation that was reviewed by the Commission during the 2019 session. The bill does not apply to municipalities with firefighters covered by the Statewide Volunteer Firefighter Plan (SVF Plan).
- Attachments:** [Amendment H3870-1A](#), related to the City of Austin
[Amendment H3870-2A](#), related to the City of Hibbing
[Fire State Aid Work Group Report](#)

Background and Overview

Under current law, a municipality's fire services can be categorized as one of the following:

1. volunteer firefighters covered by an affiliated volunteer fire relief association or the Statewide Volunteer Firefighter Plan (SVF Plan);
2. career firefighters covered by the Police and Fire Plan (P&F Plan) of the Public Employees Retirement Association (PERA); or
3. a combination of both volunteer firefighters and career firefighters with the career firefighters covered by the P&F Plan and the volunteer firefighters covered by the relief association or SVF Plan (this arrangement is called a "combination department").

If a municipality has only volunteer firefighters, all of the fire state aid it receives is transferred to the relief association or to the SVF Plan to pay for retirement benefits. If a municipality has only career

¹ "Municipalities" includes independent non-profit firefighting corporations.

firefighters, the municipality retains the fire state aid, but can only use it to pay employer contributions to the P&F Plan. However, if a municipality has a combination department, the municipality must still transfer all of its fire state aid to the relief association or SVF Plan and is not permitted to use any fire state aid for its career fire fighters. As of 2018, there were approximately 65 combination fire departments.

In the 2018 pension bill, the legislature established a working group to investigate whether municipalities with combination departments should be permitted to allocate their fire state aid between their volunteer firefighters and career firefighters.² The work group produced a report (attached) recommending that municipalities be permitted to allocate fire state aid in certain circumstances as detailed below. The Commission considered the work group's report at a meeting on March 12, 2019, but legislation enacting the work group's recommendation was not complete and so was not considered by the Commission.³

The work group recommended that the law be changed to allow municipalities with combination fire departments to allocate fire state aid to both their volunteer firefighters and their full-time firefighters, but only if the municipality and the fire relief association agree on the amount of fire state aid that would be allocated to the relief association. If no agreement is reached, the group recommended that aid continue to be transferred to the relief association or SVF Plan.

This bill implements most of the work group's recommendation, with one notable exception; it does not address fire state aid allocation for fire departments covered by the SVF Plan. The reasons for this exception is explained later in this memo.

Section by Section Summary

Section 1

Section 1 amends existing law to require a municipality affiliated with a relief association to distribute fire state aid in accordance with an aid allocation agreement if one exists.

Section 2

The second section proposes a new section of law (477B.042) and is organized into five subdivisions.

Subdivision 1: Applicability.

Subdivision 1 establishes that only a municipality with a combination fire department can enter into an aid allocation agreement. The subdivision also defines a combination fire department as one with one

² *Minnesota Laws 2018, Ch. 211, Art 14, Sec. 27.*

³ *Draft legislation was circulated to the Commission and public, but Commission staff recommended that the draft legislation required more work before it could be considered for inclusion in the omnibus bill.*

or more volunteer firefighters and one or more career firefighters. Eligibility to use an aid allocation agreement is determined on an annual basis.

Subdivision 2: Allocation of fire state aid.

Subdivision 2 authorizes the aid allocation agreement and requires a municipality to transmit the amount determined by the agreement to the relief association within 30 days of the municipality receiving fire state aid from the state. Fire state aid retained by the municipality can only be used to pay employer contributions to the P&F Plan for career firefighters. The aid must be used for that purpose within 18 months of the municipality receiving the aid or the aid reverts to the relief association.

Subdivision 3: Aid allocation agreement.

Subdivision 3 describes what must be included in the written aid allocation agreement. The agreement must provide the amount of fire state aid to be transmitted to the relief association as either a percentage of fire state aid, a dollar amount, or a formula for determining the amount (e.g., \$5,000 per firefighter). The agreement must indicate how long it will last and must be signed by authorized persons from the municipality and relief association.

Subdivision 4: Modifying or terminating the aid allocation agreement.

Subdivision 4 provides that an aid allocation agreement can be terminated by the mutual consent of the parties or by one party upon a 50% or more change in the fire state aid transmitted to the municipality by the state. This is intended to permit the municipality to renegotiate the agreement in the event that a significant change occurs such as merging two municipalities or splitting a fire department or a change in law affecting computation of fire state aid.

Subdivision 5: Filing requirement and remedy.

Subdivision 5 requires municipalities to file a copy of the aid allocation agreement each year with the State Auditor by March 1 and to notify the State Auditor if the agreement terminates within 30 days after termination. If a municipality fails to file the agreement or if an agreement does not meet the requirements laid out in subdivision 3, then the municipality cannot allocate fire state aid until the municipality is in compliance.

Discussion and Analysis

Who does this bill affect?

This bill affects approximately 68 combination departments, and their affiliated relief associations and municipalities. In 2016, these relief associations had approximately 2,800 active members. The bill does not affect the more than 500 other relief associations except that the bill will apply to any non-combination department that hires a career firefighter in the future. The bill does not affect any municipality whose firefighters are covered by the SVF Plan.

Effect on relief association and municipality interests.

This bill puts fire state aid money on the table; this allows affected municipalities and relief associations to find a mutually beneficial arrangement that permits the use of any excess fire state aid funds. The bill gives affected relief associations the power to give up their right to fire state aid money. Current law gives municipalities a number of powers including the power to withhold approval for an increase in retirement benefits. The Fire State Aid Work Group's recommendation indicates the Work Group's belief that this structure will result in mutually beneficial arrangements and the more efficient use of fire state aid.

Overfunding of relief associations.

Over the past three years, the Commission has heard testimony that many relief associations are overfunded. In 2017, the average funded ratio for a lump-sum plan was 138.5%.⁴ This issue may in part stem from some municipalities' reluctance to ratify increases in firefighter benefits. Under current law, any increase in a relief association's benefits is not permanent unless ratified by the municipality.⁵ This bill provides an incentive for municipalities to agree to ratify a benefit increase in exchange for the use of fire state aid. If municipalities and their relief associations decide to enter into agreements, it is likely that the agreements will result in lower surpluses of fire state aid for the affected relief associations. Note, however, that the bill addresses allocation of state aid to be paid in the future and does not permit allocation of existing surplus. Also, the bill only applies to the approximately 65 combination departments. Other legislation introduced this session provides other options for addressing overfunding more broadly, including increasing the lump-sum benefit maximum amounts, providing for relief association dissolutions and retirement plan termination, and authorizing relief association conversions from defined benefit plans to defined contribution plans.

Why isn't the SVF plan included in the bill?

There are approximately 16 fire departments that would qualify as combination fire departments in the SVF Plan. As noted above, the Fire State Aid Work Group recommended that municipalities with firefighters covered by the SVF Plan should be permitted to allocate fire state aid if a majority of firefighters covered by the SVF Plan for that municipality consent to the allocation. However, the Work Group did not make a recommendation on a process for obtaining the firefighter's consent. As a result, Commission staff made a number of policy decisions while drafting the SVF portions of the bill without guidance from the workgroup. In order to get input on those policy decisions, Commission staff presented draft legislation to the PERA SVF Advisory Council. The Council considered the draft language over two meetings, but was unable to recommend approval of the draft language and was unable to

⁴ OFFICE OF the STATE AUDITOR, *Financial and Investment Report of Volunteer Fire Relief Associations for the Year Ended December 31, 2017*, p 3.

⁵ *Relief associations can approve and pay higher benefits if they meet certain funding requirements. However, the higher benefits will be reduced if the fund starts running a deficit, unless the municipality ratifies the increase. Minn. Stat. § 424A.02, Subd. 10.*

recommend any alternative approach. Without the support of a policy-making body or legislator, Commission staff felt it was inappropriate to include those provisions in the bill.

The SVF Plan differs from volunteer firefighter relief associations in a couple key ways. First, a relief association is a legal entity capable of taking independent legal action and entering into contracts. It has the power and resources to take independent legal enforcement action against a municipality that violates an aid allocation agreement. There is no similarly empowered organization for firefighters in the SVF Plan.⁶ Second, the board of trustees for a relief association have a fiduciary duty to the members of a relief association to act in their best interest. There is no group with a similar duty to the firefighters in the SVF Plan that could represent the firefighters to the municipality in a negotiation. For these reasons, staff believes that changes to allow municipalities in the SVF Plan to allocate fire state aid should be considered independently from similar changes for the relief associations.

City of Austin

The City of Austin is one of two municipalities that currently allocate fire state aid between its full-time firefighters and its relief association. In 2018 and again in 2019, the legislature passed laws permitting Austin to allocate fire state aid between its full-time firefighters and its relief association. The city has been allocating fire state aid under a provision of its relief association's bylaws that was agreed to by both the City of Austin and its relief association several years ago. Under this bill, the City of Austin is able to continue to allocate fire state aid but would be required to renegotiate a new agreement with its fire relief association. The Commission may wish to consider an amendment to HF 3870; SF 3574 that would permit Austin's current arrangement to continue.

- [Amendment H3870-1A](#) creates an uncoded section in the bill that permits the City of Austin's current arrangement to continue until the City and the relief association decide to change the amount of fire state aid that the city allocates to the relief association. At that point, any future agreement would be required to comply with the other provisions of HF 3870; SF 3574. The amendment is drafted so as to apply to any similarly situated municipality.

City of Hibbing

The City of Hibbing is the second of two municipalities that currently allocate fire state aid between its full-time firefighters and its relief association. Unlike the City of Austin, Hibbing has special legislation that will not automatically expire upon this bill becoming effective. Thus, Hibbing may be able to operate under its existing agreement indefinitely.

In 1980, the legislature passed a law permitting the City of Hibbing to allocate fire state aid proportionately between its full-time firefighters and its relief association. In 2007, following a civil suit regarding the application of that law, the relief association and the City entered into a settlement

⁶ *There is often a firefighter's relief association for firefighters in a particular municipality covered by the SVF, but it often functions as a way to raise money for new gear and to organize community events rather than as an organization representing the employee interests of the firefighters.*

agreement that sets forth the amount of fire state aid to be contributed to the fire relief association. The Commission may wish to consider an amendment to HF 3870; SF 3574 that grandfathers the existing Hibbing agreement but would require any future agreement to comply with the provisions of this bill.

- [Amendment H3870-2A](#) creates an uncoded section in the bill that permits Hibbing's current arrangement to continue but requires any future modification of the agreement to comply with HF 3870; SF 3574. This amendment includes the repeal of Hibbing's special law, Laws 1980, Chapter 607, Article XV, Section 13.

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