

PERA Statewide Volunteer Firefighter Retirement Plan and the Sharing of Fire State Aid with Municipalities

Prepared by: Susan Lenczewski, Executive Director
Chad Burkitt, Analyst

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Introduction

We have been asked to provide a summary of an issue that has been raised in recent meetings of the Legislative Commission on Pensions and Retirement and the House Government Operations Committee and by Senator Isaacson in the Senate floor session when the 2020 Pension and Retirement Bill was adopted. The issue is related to the sharing of fire state aid between a volunteer firefighter relief association and its affiliated municipality, which is addressed in Article 11 of the bill, but more specifically would apply to the sharing of fire state aid paid to the PERA Statewide Volunteer Firefighter Retirement Plan ("PERA SVF Plan") for retirement benefits for volunteer firefighters in that plan.

Specifically, the question is: *Why does the 2020 Pension and Retirement Bill not include provisions for sharing fire state aid between the PERA SVF Plan and a municipality?*

This memo answers that question, but starts with some background regarding the PERA SVF Plan and how it differs from a relief association retirement plan and why addressing this topic in the 2020 bill is not as simple as adding a provision or two to the article that allocates fire state aid between relief associations and municipalities.

Background

Since the PERA SVF Plan was established in 2009, relief associations have been able to transfer their retirement plan to the PERA SVF Plan to administer and, as part of that transfer, the relief association transfers its retirement plan assets, which fund retirement benefits, to the State Board of Investment. Typically, once transferred, there's no need for a relief association, so the relief association dissolves or continues to exist to do activities such as fundraising for fire equipment (pancake breakfasts, bake sales, etc.).

"Volunteer" in the world of Minnesota firefighters means that the firefighter typically has a full-time job doing something else, but has been trained and "volunteers" to show up when called to handle fires and other emergencies, for which the firefighter is paid by the hour or by the call. The firefighter's only other compensation typically is the retirement benefit, either from the relief association or the PERA SVF Plan.

The volunteer firefighters covered by the PERA SVF Plan are similar to members of any other statewide pension plan, such as PERA General Plan or PERA Police and Fire Plan, except that the benefit received by each group of firefighters depends on the level of fire state aid received by PERA for that group and the wishes of the affiliated municipality. Except for the fact that the firefighters are all employed by the same employer (i.e., the municipality that pays them per call or by the hour), the group of firefighters

are no more organized or represented by a leader than any group of employees employed by the municipality. For instance, the employees of a city are covered by the PERA General Plan in the same way that the volunteer firefighters are covered by the PERA SVF Plan, but in neither case is there a governing board or representative who can negotiate with the city on the topic of retirement benefits or the funding for those benefits.

Contrast this situation with the volunteer firefighters covered by a relief association and the retirement plan it administers: the relief association has a board of trustees, led by a president, which meets regularly, and all the members typically meet annually to vote and approve other business. In short, there is a structure in place that protects firefighters in the relief association case, unlike in the case of the PERA SVF Plan, where there is no structure in place to protect the interests of the firefighters. In fact, but for the requirement that fire state aid attributable to the municipality (and its fire district) has to be paid to PERA for each group of firefighters, the municipality controls all aspects of the firefighters' retirement benefit under the PERA SVF Plan, including whether the benefit level on which the retirement benefit depends will be increased because there has been an increase in fire state aid for that municipality.

Whether the retirement benefits are provided by a relief association retirement plan or the PERA SVF Plan, they are funded by fire state aid and current law requires that fire state aid be used exclusively to fund retirement benefits for volunteer firefighters.

Change to fire state aid in the 2020 Pension Bill and difficulty in applying it to the PERA SVF Plan

Under current law, fire state aid can only be used to provide retirement benefit to volunteer firefighters. Article 11 of the 2020 Pension Bill answers the question of whether fire state aid should be able to be shared with the affiliated municipality to help pay the municipality's costs relating to "career" or full-time firefighters to cover the cost of contributions to the PERA Police and Fire Plan and, thereby, free up cash for the municipality's other needs. This is the topic studied by the Fire State Aid Work Group during the interim between the 2018 and 2019 sessions. Article 11 of the 2020 Pension Bill allows this to happen and, while controversial at first, has become generally acceptable to the firefighter groups and, of course, municipalities. Firefighters find it acceptable primarily for two reasons: (1) sharing of fire state aid is not required and (2) it can only happen if the board of trustees of the relief association and the municipality reach agreement on how to share the fire state aid.

In the case of the PERA SVF Plan, the work group tried to reach a consensus on how to handle the sharing of fire state aid, but the group did not have enough understanding of how the PERA SVF Plan functions (most of the individuals in the work group were involved with relief associations in some way) and there were too many unanswered questions to reach much of a recommendation on legislation. The problem with applying the ability to share fire state aid in the case of the PERA SVF Plan is that there is no governing board or leadership structure with which the municipality can negotiate and reach agreement. The question that required more consideration than there was work group time: *How to protect the interests of the firefighters if the municipality wants a portion or all of the fire state aid that would otherwise be paid to PERA to fund retirement benefits for the municipality's volunteer firefighters?*

When staff drafted the fire state aid allocation bill for relief association, we attempted to draft legislation that provided for the sharing of fire state aid between the PERA SVF Plan and a municipality. In order to do that, we had to make decisions on open issues that had not been decided by the Fire State Aid Work Group. The legislation was discussed at two separate meetings of the PERA SVF Plan Advisory Committee during the interim, prior to the start of the 2020 session. The advisory committee did not approve the legislation and indicated that more work on draft legislation was needed to make sure that firefighters were adequately protected and that the firefighters would have a voice in whether and how much fire state aid a municipality could take.

City of Mounds View's position on this topic

Staff understands that Nyle Zikmund, City Administrator for the City of Mounds View, has been sending emails to legislators (see sample email, below) and contacting them with the message that the PERA SVF Plan was left out of the fire state allocation bill and should have been included because the issue is the same for both the relief associations and the PERA SVF Plan. As mentioned above, it is not possible to apply the sharing concept to the PERA SVF Plan in the same way it is being applied to the relief associations, if new law is to provide any protections to the interests of firefighters.

Staff has worked with Mr. Zikmund for many years. He has a deep understanding of firefighter issues and was instrumental in setting up the PERA SVF Plan in 2009. Historically, he represented the interests of firefighters; however, in view of his current employment and that we are not aware of any leadership role he holds currently with any of the firefighter groups, that may no longer be the case. Also, the amount of time and energy he has spent lobbying on this topic is more consistent with his duties as city administrator. If his proposal is enacted as he proposes, Mounds View will have the ability to take as much of the fire state aid as it desires, in excess of the annual cost to cover the firefighters' current level of benefits.

Mr. Zikmund states that, under the PERA SVF Plan, the city has total discretion over all decisions. Accordingly, the legislation Mr. Zikmund proposes would give the municipality complete discretion as to the fire state aid, based on his theory that the firefighters gave up all their rights when they join the PERA SVF Plan. It is true that they do give up nearly all rights, but their agreement to join the PERA SVF Plan is premised on current law that clearly requires all fire state aid to be paid by the Department of Revenue to PERA to be used solely to fund retirement benefits for the applicable group of volunteer firefighters. There is no basis for assuming that the firefighters give up this right when they join the PERA SVF Plan; rather, it seems more likely that they join the Plan based on the assumption that fire state aid will continue to fund their retirement benefits.

Interim work

As directed by the LCPR Chair at the end of the last meeting of the Commission, LCPR staff will work with PERA's executive director and legislative staff, other stakeholders, including representatives of the firefighter association, and Mr. Zikmund during the interim to come up with proposed legislation that will permit a municipality to take a portion of the fire state aid, but subject to reasonable restrictions to protect the interests of the volunteer firefighters. Such restrictions could include conditioning the municipality's receipt of fire state aid on its consent to increase the level of retirement benefits, require

that a vote of the firefighters be taken on the municipality's proposal, or give the firefighters the right to file objections against or veto a proposal by the municipality to take a portion of the fire state aid. If time allows, LCPR staff will work with PERA staff to have proposed legislation considered and eventually approved by the PERA Statewide Plan Advisory Committee at one of its meetings during the interim.

Sample email:

From: Nyle Zikmund <nyle.zikmund@moundsviewmn.org>

Sent: xxx, 2020

Subject: RE: Legislation

The draft legislation is part of a three+ year effort related to the situation in Austin, Maplewood, and SBM as well as 20+ other fire departments. Apportioning fire pension aid between the City to pay career pension costs and the relief association as more departments transition from all volunteer to some career (SBM has 14 Full Time FF)

Current law (sans Austin) requires it to go to the relief, they passed special legislation a year ago. A task force was formed the same year and made recommendations that did not get included in last year's pension bill but there was no opposition to the apportionment language.

There are TWO Different Plans – Eagan and Plymouth are local plans (as were all up until the state plan was created 7 years ago) – their language requires a written agreement between the relief association and city and then they can apportion aid between career pension and volunteer relief.

SBM is one of 175 that have joined the state plan administered by PERA. Of the 175, only 11 are combination departments (one or more full time) of that, only three have more than 1 full time; White Bear Lake and Oakdale. In fact the three of us have 52 of the 75 full time of those 11 departments.

Plans that joined the state plan no longer have a relief special fund operation (but at least 9 still have a relief doing general fund activity). All administration/duties, decisions were handed over/relegated to PERA for admin and the city for decisions. Our bill would keep that policy in place – the city decides; that is-there is no written agreement needed given the city has been granted full decision making authority.

If legislators want to reverse that policy (city control only) SBM is open to that but one of the primary reasons plans joined the state (and BOTH the relief and city had to adopt resolutions to join) was to get out of interactions that have, in other jurisdictions (never ours) become divisive. I share only because it may become an issue in the discussion and again, if the legislature wants a written agreement between the relief and city, SBM and the JPA partners are open to that.

I have spoken to 9 of the other 10 (one never got back to me) and all support permissive language. PERA has an advisory board for the plan but only 1 of the 10 members are from a monthly. They ran out of time discussing this before they adjourned until next year despite our request that they do something. They will not be supporting but neither will they be opposing. I have met with them and advised them of our actions every step of the way.

Memo re PERA SVF Plan and Fire State Aid.docx

Legislative Commission on Pensions and Retirement

55 State Office Building
Phone: 651-296-2750

100 Rev. Dr. Martin Luther King Jr. Blvd.
TDD: 651-296-9896; Fax: 651-297-3697

St. Paul, MN 55155-1201
www.lcpr.leg.mn