



Voluntary Statewide Volunteer Firefighter Retirement Plan Tool Kit

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This tool kit helps cities institute a process for joining the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan. It contains a number of provisions a city may want to adopt. A city wishing to adopt any part of this tool kit should review the materials with the city attorney to determine which provisions and what language are best suited to the city's circumstances. Because provisions within this tool kit implicate state statutes and involve state and federal constitutional rights, the city attorney should review any modifications to ensure they conform to current law.

New Law on Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan:

Frequently Asked Questions

1. Who makes the decision to join the Statewide Plan? The fire relief association or the city council?

The decision-making process for joining the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan (Statewide Plan), which was created in *2009 Minnesota Laws*, chapter 169, article 9, sections 1-25, has two major steps. **First**, the city council *and* fire relief association board (FRAB) must request a cost analysis of prospective retirement coverage from the Minnesota Public Employees Retirement Association (PERA). The cost analysis document details for the city and FRAB the estimated costs to the city for the benefit levels requested. While PERA prepares the cost analysis, the State Board of Investment (SBI) staff examines the investments of the FRAB to determine which may be transferred to the Statewide Plan outright and which must be sold. **Second**, after reviewing the cost analysis, the city council must pass and transmit to PERA a resolution within 90 days expressing intent to join the Statewide Plan.

The FRAB must consent to the request for the PERA cost analysis. Once the FRAB has consented, the FRAB secretary must sign the form submitted to PERA for the cost analysis. The city council must also consent and direct the city's chief administrative officer (the city clerk, manager, or administrator) to sign the form. *It is important to note, however, once the cost analysis is received, the only approval needed to join the Statewide Plan is a resolution of the city council.* As a result, the FRAB should seriously discuss and consider its willingness to join the Statewide Plan at the initial step of consenting to the cost analysis. After this step, the FRAB's consent is not required to join the Statewide Plan.

A form for requesting the cost analysis and a model resolution for joining the plan are found in the *LMC Voluntary Statewide Volunteer Firefighter Retirement Plan Toolkit*.

2. Can the fire relief association join the Statewide Plan without the city council's consent?

The FRAB cannot join the Statewide Plan without the participation and consent of the city council. The FRAB and the city council must jointly sign the request to PERA for a cost analysis. Once the cost analysis is reviewed by the city council and the FRAB, only the city council has the authority to pass a resolution joining the Statewide Plan.

3. Can individual firefighters choose to join the Statewide Plan?

Individual firefighters cannot join the Statewide Plan. Firefighters will only be covered by the Statewide Plan if their city council opts to have the Statewide Plan manage all FRAB pension assets following the process discussed in Question 1 above.

4. If our fire department is a joint powers entity, who makes the decision to join the Statewide Plan?

If the fire department is a joint powers entity (composed of two or more governing bodies operating as a joint power under *Minnesota Statutes*, section 471.59), the FRAB and *all* of the governing bodies of the cities/townships that form the joint powers entity must consent to the step-one cost analysis request from PERA and pass resolutions opting to join the Statewide Plan. A form for requesting the cost-analysis and a model resolution for joining the plan are found in the *LMC Voluntary Statewide Volunteer Firefighter Retirement Plan Tool Kit*.

5. Once we join the Statewide Plan, can we change benefit levels?

When the city first joins the Statewide Plan, it may select a lump-sum benefit amount equal to or greater than the lump-sum benefit currently in place with the FRAB, for example, \$750.00 per year of good service. Cities may not reduce agreed-to benefits when joining the Statewide Plan without the consent of the FRAB. After joining the plan, the city may opt to increase benefit levels on an annual basis in set amounts between \$500 and \$7,500. Increases are allowed as long as the funds invested with the Statewide Plan are adequate to cover the increases, or the city agrees to pay in an additional amount to fund the higher benefit level selected.

6. If we join the Statewide Plan, will the city's contribution responsibility or costs increase?

It depends on the benefit level selected when joining the Statewide Plan and on the level of funding of the existing FRAB-managed pension fund (as discussed in question 7). Simply joining the Statewide Plan does not necessarily create any *additional* costs to the city—again additional cost will be driven by the benefit level selected. However, it should be emphasized that returns on investments placed with the Statewide Plan are not guaranteed (the same as with a pension plan managed by the FRAB). Should investments not generate the average annual expected 6 percent return to pay out all promised benefits and liabilities, the city may have to contribute additional money to the Statewide Plan to make up the difference. This is not an *additional* risk created by joining the Statewide

Plan, as the city is currently required to make up similar deficits in funds managed by the FRAB (see question 7).

7. If our fire relief association “special fund” is not currently solvent, can we still join the Statewide Plan?

The FRAB must segregate all pension-related funds (received from the city or through state aid) into a “special fund” that is used only to pay out earned pensions (and costs associated with managing the special fund). FRABs that are currently experiencing a deficit in their special fund (i.e., funds are not adequate to pay out for all promised benefits and liabilities) may still join the Statewide Plan. As is currently required for funding a FRAB, cities will need to make annual payments into the Statewide Plan to fully fund the benefits. The additional funding identified in the PERA cost analysis to bring the city’s fund up to required levels will spread the payment out over 10 years and will be recalculated each year, just as is done under current law for funding a local FRAB. More information about current relief association fund deficits can be found in the Minnesota state auditor materials titled *Fire Relief Association Funds and Required Municipal Contributions to Volunteer Fire Relief Associations*, by State Auditor Rebecca Otto. They are available online at

www.osa.state.mn.us/other/Statements/FireReliefAssociationFunds_0905_statement.pdf
and
www.auditor.state.mn.us/other/columns/MunicipalContributionsToFireReliefsForLMCO90311.pdf.

8. Will joining the Statewide Plan reduce the amount of paperwork the fire relief association must file each year?

After joining the Statewide Plan, the FRAB will no longer be obligated to assemble and file many of the various financial reports and statements currently required under the law by FRABs that manage their own funds (or pay consultants to handle these financial reports). PERA will be working with the Office of the State Auditor to define a procedure to accommodate the first year transition from the locally administered FRAB to participating in the new plan. Once in the new plan, PERA will handle this paperwork instead. However, city paperwork on some items, such as good time certification and annual fire department reporting requirements with the Department of Revenue, will remain. More information on these mandated reporting requirements can be found in the Minnesota state auditor’s document *Key Reporting Requirements* at www.auditor.state.mn.us/forms/pen/ReportingForms/pensionrf_requirements.pdf.

9. Who manages the Statewide Plan?

The policy-making, management, and administrative functions related to the Statewide Plan are vested in the Board of Trustees and the executive director of

PERA. The State Board of Investment invests the plan's funds according to the guidelines imposed upon it by state law. A Voluntary Statewide Lump-Sum Volunteer Advisory Board has also been created to provide PERA with advice about the needs of volunteer firefighters who are members of the plan. The Advisory Board consists of: (1) one representative of Minnesota townships, appointed by the Minnesota Association of Townships; (2) two representatives of Minnesota cities, appointed by the League of Minnesota Cities; (3) one representative of Minnesota fire chiefs, who is a fire chief, appointed by the Minnesota State Fire Chiefs Association; (4) two representatives of Minnesota volunteer firefighters, who are active volunteer firefighters, appointed by the Minnesota State Fire Departments Association; and (5) one representative of the Office of the State Auditor, designated by the Minnesota state auditor.

10. Once we join the Statewide Plan, can we change our minds and return to managing our own investments?

There is currently no process in state law for the Statewide Plan to return invested funds to the relief association that formerly managed the funds. In addition, once a city opts into the Statewide Plan, the special fund of the FRAB ceases to exist. Any city's decision to back out of the Statewide Plan would require a special legislative request unless the terms of the statewide plan are amended at some time in the future to allow opt outs.

11. Once we join the Statewide Plan, is our relief association money mixed with other relief association's money or general pension accounts for PERA?

Individual FRAB funds are maintained in separate accounts for each city that joins the Statewide Plan. They are not commingled with funds from other entities or plans to pay administrative expenses or benefits to any other participating groups. The funds are, however, commingled by the SBI for purposes of investing to assure the maximum return for the lowest investment fees possible. Cities will receive annual financial statements from PERA detailing the return on their individual funds.

12. Will our lump sum plan structure remain the same when we join the Statewide Plan?

If the city currently pays an annual lump-sum amount per year of service (a lump-sum defined benefit plan), the FRAB plan structure for paying benefits will not change when joining the Statewide Plan. The city selects the benefit amount from a list of 16 possible levels when joining the plan (see question 5 above). The city can raise, but not lower this amount without the consent of the FRAB. As a result, benefit levels and method of

payout do not change as a result of joining the Statewide Plan, unless the current benefit level is less than the minimum benefit level (\$500 per year of service) or falls between the 16 benefit levels offered by this new plan. For example, if a firefighter was entitled to a lump-sum payout of \$750 per year of service under the FRAB-managed fund, the same firefighter will receive a payout of \$750 per year of service under the Statewide Plan if the city has not elected to offer a higher benefit level available under the new plan structure.

13. If our plan structure is currently a “defined contribution plan” or a “defined benefit plan that offers a monthly pension benefit,” can we join the Statewide Plan?

Defined contribution plans or defined benefit plans that offer a monthly pension benefit are eligible to join, but the Voluntary Statewide Lump-Sum Volunteer Advisory Board and PERA staff advise against it at this time and are working with legislative staff to amend the law as passed this year. This is because the new state law authorizing the Statewide Plan does not provide a mechanism for PERA to convert these types of plans to the lump-sum annual benefit plan offered by the Statewide Plan. Language to define how to accommodate the conversion will be introduced for passage in the 2010 session.

14. Once we join the Statewide Plan, is it true that benefits are portable?

Yes—provided that the firefighter moves to a new fire department that is also participating in the Statewide Plan. Currently many fire relief associations do not provide any type of benefit payout unless the firefighter accrues 10 to 20 years of service. If a firefighter relocates out of town, prior to fulfilling 10 to 20 years of service, often all benefits are lost. Under the Statewide Plan, firefighters may accrue two years from one department, five from another, and 13 years from still another (provided all the department relief associations belong to the Statewide Plan)—and qualify for a full 20-year retirement that is paid out in one lump sum by the Statewide Plan. Cities that view their pension offerings as their major fire department recruitment tool may view this aspect of joining the Statewide Plan as something to advertise to prospective firefighters.

15. Does the Statewide Plan pay a survivor’s benefit if a firefighter dies in the line of duty?

Yes, the Statewide Plan offers a survivor benefit that is payable to the fallen firefighter’s spouse or children (or estate, if no spouse or children). The amount paid out as a survivor benefit is the amount of the service pension that would have been payable to the member of the retirement plan on the date of death if the member had been age 50 or older on that date.

16. What happens to the fire relief association after we join the Statewide Plan? Does it cease to exist?

Once the city joins the Statewide Plan, the special fund (the fund devoted to managing pension assets) managed by the FRAB ceases to exist. This does not necessarily mean the demise of the fire relief association and the FRAB. Following the decision to join the Statewide Plan, the fire relief association membership as a whole (not just the FRAB) may elect to continue the relief association. However, the law requires the following changes to be made:

- The relief association board of trustees membership must be reduced to five, comprised of the fire chief of the fire department and four trustees elected by and from the relief association membership.
- The relief association may only maintain a general fund, which continues to be governed by *Minnesota Statutes*, section 424A.06.
- The relief association is not authorized to receive the proceeds of any state aid or to receive any municipal funds.
- The relief association may not pay any service pension or benefit that was not authorized as a general fund disbursement under the articles of incorporation or bylaws of the relief association in effect prior to the plan coverage election process.

There are many practical reasons why the fire relief association membership would choose to continue to exist after the demise of the special fund. For example, many fire relief associations use their nonprofit association status to conduct lawful gambling (such as pull tabs or bingo). Many fire relief associations also use their nonprofit status to obtain temporary liquor licenses (or 3.2 beer licenses) for annual dances and other fundraising events.

17. Our fire department currently does not have a fire relief association and does not offer a pension. Can we join the Statewide Plan as a way to create a pension benefit for our firefighters?

Yes—cities that currently do not have a fire relief association and do not offer a pension may join the Statewide Plan. These cities may have different steps to follow than outlined in the *LMC Voluntary Statewide Volunteer Firefighter Retirement Plan Tool Kit* for cities with *existing* pension funds. Please contact PERA, as discussed in question 19, for more information.

18. An independent nonprofit firefighting corporation currently provides the city with fire protection services. Can they join the plan?

Some cities do not have a fire department and instead contract with a separate nonprofit entity, known as an independent nonprofit firefighting corporation, to provide fire services. These entities are relatively rare—and operate as a separate private business from the city (they own their own fire halls and equipment and directly pay their own staff). These entities are eligible to join the Statewide Plan, however, they may have to follow different steps than those outlined in the *LMC Voluntary Statewide Volunteer Firefighter Retirement Plan Tool Kit*. Please contact PERA, as discussed in question 19, for more information.

19. Who do we contact to join the Statewide Plan or ask questions?

Dave DeJonge at Minnesota PERA is available to assist cities and relief associations with their questions on the Statewide Plan. His contact information is (651) 201-2641 or Dave.Dejonge@state.mn.us.

New Law on Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan:

Checklist

- The fire relief association board (FRAB) and city council consider and discuss the benefits of joining the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan (Statewide Plan). If both the FRAB and city council approve, they should jointly request a cost analysis from the Minnesota Public Employees Retirement Association (PERA) using PERA's approved form. The form must be signed by the FRAB secretary and the chief administrative officer of the city (the city clerk, manager, or administrator).
- If the fire department is a joint powers entity, the governing bodies of all the cities/townships belonging to the joint powers entity must consent to the cost-analysis and sign the form.
- PERA prepares estimated costs for the benefit level(s) requested and provides a cost analysis to the city and FRAB.
- At the same time that PERA is conducting the cost analysis, the State Board of Investment (SBI) reviews the investment portfolio of the existing relief association and determines which assets could be transferred to SBI and which must be sold because Minnesota statute prohibits the SBI from owning them. ***This review is included in the PERA cost analysis.***
- Upon receipt of the cost analysis, the city council (and other governing bodies if the fire department is a joint powers entity) has 90 days to opt to join the Statewide Plan on the terms discussed in the PERA cost analysis (this may include a pay-in to the Statewide Plan if the FRAB currently has a deficit, or if a request for an increased benefit level requires additional funding). Approval must be by formal resolution and must be received by PERA within the 90-day framework.
- If the city council provides PERA with a resolution opting to join the Statewide Plan, PERA begins administering the relief funds for the city, effective the following Jan. 1, and issues all future benefit payments.
- Once PERA begins administering the relief funds, the relief association's special fund is dissolved. With some modifications, the relief association may continue as an organization and maintain its general fund—if the relief association membership (the whole membership—not just the relief association board) votes to continue its existence.

New Law on Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan:

Glossary of Terms

Independent nonprofit firefighting corporation: A relatively rare firefighting entity that is not a city fire department. An independent nonprofit firefighting corporation is a separate corporation (owning its own premises and equipment, and paying its own staff) that contracts with cities to provide fire services.

Fire department: A fire department is a department of the city created to manage and suppress fires and is subject to the direction and control of the city council. *The fire department is not the fire relief association.* The fire relief association is a separate entity from the fire department.

Fire relief association: The relief association is a separate entity from the affiliated fire department, and is governed by its own board of trustees. The relief association is created to manage pension benefits.

Fire relief association board: The relief association board directly manages and invests the pension benefits for the relief association as a whole. The relief association board is composed of relief association members (elected by their peers) and city officials (appointed by the city).

Joint powers entity/fire department: A fire department created or managed by and composed of two or more governing bodies operating as a joint power under *Minnesota Statutes*, section 471.59, sometimes with a joint powers board.

Lump-sum benefit plan: A pension plan where participants receive a guaranteed set amount per year of good service. After a required amount of years of service (usually 10 or 20) and the participant reaches a designated age (usually 50), the pension is paid out in one lump sum.

Minnesota Public Employees Retirement Association (PERA): Established in 1931 by the state of Minnesota, PERA administers three statewide retirement plans providing defined benefit plan coverage to employees of local governments and school districts, one statewide retirement plan providing defined contribution (DCP) coverage to elected officials and medical personnel, and the new Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan. More information can be found on the PERA website at www.mnpera.org.

Special fund: A fund managed by the fire relief association board that contains all pension-related funds. The fund may be used only to pay out earned pensions (and costs associated with managing the special fund).

Voluntary Statewide Lump-Sum Volunteer Advisory Board: A board created to advise PERA about the needs of volunteer firefighters who are members of the plan. The Advisory Board consists of: (1) one representative of Minnesota townships, appointed by the

Minnesota Association of Townships; (2) two representatives of Minnesota cities, appointed by the League of Minnesota Cities; (3) one representative of Minnesota fire chiefs, who is a fire chief, appointed by the Minnesota State Fire Chiefs Association; (4) two representatives of Minnesota volunteer firefighters, who are active volunteer firefighters, appointed by the Minnesota State Fire Departments Association; and (5) one representative of the Office of the State Auditor, designated by the Minnesota state auditor.

New Law on Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan

MODEL RESOLUTION

CITY OF _____

RESOLUTION No. _____

A RESOLUTION OPTING TO JOIN THE VOLUNTARY STATEWIDE LUMP-SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN

The City Council of the City of _____, Minnesota, does ordain:

WHEREAS: The City is authorized to join the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan administered by the Public Employees Retirement Association (PERA); and

WHEREAS: The City and the City's Fire Department Relief Association have jointly consented to and obtained a cost analysis for joining the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan from PERA not less than 90 days ago; and

WHEREAS: The City highly values the contributions of City Fire Department members to the safety and well being of our community and wishes to safeguard their pension investments in a prudent manner.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____,
MINNESOTA:**

- 1) The City hereby approves coverage by and requests participation in the Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan administered by PERA under the terms provided in the PERA cost analysis at the \$_____ benefit level per year of service; and
- 2) The City Clerk/Administrator and Mayor are hereby authorized to execute all documents necessary to effectuate the intent of this resolution.

The motion for the adoption of the foregoing resolution was proposed by Councilmember _____ and was duly seconded by Councilmember _____ and upon vote being taken thereon, the following voted in favor:

And the following voted against the same:

Whereupon said resolution was declared duly passed and adopted by the City Council of the City of _____, on _____, 20__.

BY:

ATTEST:

Mayor

City Clerk or City Administrator