

Exhibit B

Maximum Benefit Levels

Topic:

Statute requires that relief associations with defined-benefit plans (lump-sum, monthly, and monthly/lump-sum combination plans) calculate annually the maximum allowable benefit level. The Office of the State Auditor (OSA) provides relief associations with a form called the Maximum Benefit Worksheet (MBW) for performing the calculation.

The calculation is an average of a relief association's non-investment primary revenue sources for the prior three years on a per-member basis. The primary revenue sources included in the calculation are the amounts of state aid and municipal contributions received, and ten percent of the relief association's surplus.

If a relief association pays a service pension using a benefit level that exceeds the maximum allowable benefit level, statute requires that penalties be imposed. The penalties are disqualification from receiving fire state aid and a requirement that the relief association treasurer recover the amount of the overpaid service pension from any retired firefighter who received an overpayment.

Issues and Discussion Items:

Three issues have been brought to the OSA's attention that are described below.

- 1) **Calculation.** Relief associations have questioned the appropriateness of the calculation used to determine the maximum allowable benefit level. In years when investment markets are performing poorly and a relief association has a deficit, the association may receive large required contributions from the municipality. These large municipal contributions increase the maximum allowable benefit level. Conversely, a relief association with a surplus may not be authorized to increase its benefit level, even though sufficient funds are available, because the association is limited by the calculated maximum.
- 2) **Penalty.** A relief association that pays a service pension in error using a benefit level above the maximum has no opportunity to fix the error before penalties are imposed. A relief association could lose thousands of dollars in fire state aid due to a good faith error that resulted in a service pension being paid just slightly in excess of the maximum. The State Auditor has no authority to exercise discretion.
- 3) **Maximums.** Interest has been expressed in increasing the maximums, which are currently at \$10,000 per year of service for lump sum benefits and \$100 payable per month for each year of service for monthly benefits.

Optional Changes:

424A.02 DEFINED BENEFIT RELIEF ASSOCIATIONS; SERVICE PENSIONS.

Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a) If a defined benefit relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

(1) disqualify the municipality or the nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and

(2) order the treasurer of the applicable relief association to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(d) The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

(e) Upon notification by the appropriate relief association official to the office of the state auditor of a service pension amount overpayment made as a result of a maximum benefit calculation error by the relief association, after the presentation of sufficient evidence that the error occurred in good faith and if the treasurer of the applicable relief association has begun to take steps to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment, the state auditor may take into consideration the evidence of good faith presented to and may certify the municipality or nonprofit firefighting corporation associated with the relief association for fire state aid. Notwithstanding paragraph (c), the amount of any overpaid service pension recovered under this paragraph must be credited to the special fund of the relief association.