

CHAPTER 375—S. F. No. 1389

[Not Coded]

An act relating to firemen's pensions in any city of the first class now or hereafter having a population of not less than 300,000 nor more than 450,000 inhabitants.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. St. Paul, firemen's relief association. In any city of the first class now or hereafter having a population of not less than 300,000 nor more than 450,000 inhabitants, the fire department shall maintain a firemen's relief association, which shall be duly incorporated under the laws of the state, All such associations now existing as such corporations, or hereafter incorporated under the laws of the state, shall have perpetual corporate existence.

Sec. 2. Government. Such relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and by-laws, by firemen, as defined in Section 3, who are members of the fire department. Such association shall have power to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject to the regulations and restrictions of the laws of this state pertaining to corporations not inconsistent herewith.

Sec. 3. Fireman defined. A fireman under sections 1 to 29 is one who is regularly entered on the pay-roll of such fire department serving on active duty with a designated fire company thereon or having charge of one or more of the companies and engaged in the hazards of fire fighting; and shall include all members of the electrical and mechanical divisions of such fire department and all others who are subject to like hazards. Substitutes and persons employed irregularly from time to time shall not be included.

The association shall establish a firemen's pension fund or continue to maintain the firemen's pension fund now existing in such city and shall have the management and control of any such fund. All persons who are members of an existing firemen's relief association in such city shall continue as members of the relief association established under this act.

Sec. 4. Eligibility. Every fireman shall apply for membership in such relief association in such city in which he is employed within the time and in the manner hereinafter set forth. Any such fireman shall, not later than 90 days from the time he is regularly entered on the payrolls of the fire de-

partment, make written application for membership in the relief association on forms supplied by the association, accompanied by one or more physicians' certificates required by the bylaws of the association. After the application has been filed the board of examiners of the association shall make a thorough investigation thereof and file its report with the secretary of the association. The application must be acted upon by the association within six months from the date applicant was entered on the payroll of the fire department. No fireman who is more than 35 years of age when his application is filed can become a member of the relief association, except that such age limitation of 35 years shall not apply on application for reinstatement in the association.

Sec. 5. Unfit persons, right to exclude. Such firemen's relief association shall have the right to exclude all applicants for membership who are not physically and mentally sound so as to prevent unwarranted risks for the association; and additional requirements for entrance fees and annual dues for membership in the association may from time to time be prescribed in the by-laws of the association.

Sec. 6. Officers; duties, bonds. The officers of such relief association shall be a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the by-laws of any such association. The affairs of such association shall be managed by a board of trustees elected in the manner prescribed by the articles of incorporation of the association.

The secretary and the treasurer of such relief association shall each furnish a corporate bond to the association for the faithful performance of his duties in such amount as the association from time to time may determine. Such relief association shall, and it is hereby authorized to, pay the premiums on these bonds from its general fund.

Sec. 7. Reports. The secretary and the treasurer of such association, prior to the first day of February each year, shall jointly prepare and sign, with the approval of the association's board of trustees, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the sources of the receipts, to whom and for what purpose the moneys have been paid and expended, and the balance in the fund. They shall file duplicate original copies thereof with the clerk of the city in which the association is located and with the state auditor. No money shall be paid to such relief association by either the state or the city in which the association is located until the report is so filed.

Sec. 8. Certificate of existence of association. The clerk of such city having a firemen's relief association shall, on or before the 31st day of October each year, make and file with the commissioner his certificate stating the existence of the firemen's relief association.

Sec. 9. Insurance companies, report of premiums on insurance. The commissioner shall enclose in his annual statement blank sent by him to all fire insurance companies doing business in this state a blank form containing the names of such firemen's relief association provided for in this act and the name of such city and require these companies, at the time of making their annual statements to the commissioner, to state on these blanks the amount of premiums received by them upon properties insured within the corporate limits of such city named thereon during the year ending December 31st last past. Thereafter, before July first each year, the commissioner shall certify to the state auditor the information thus obtained, together with the amount of the tax for the benefit of the relief association paid in such year by these companies upon these insurance premiums.

Sec. 10. State auditor, warrants. The state auditor, at the end of each fiscal year, shall issue and deliver to the treasurer of such relief association his warrant upon the state treasurer for an amount equal to the total amount of the tax for the benefit of the relief association paid by fire insurance companies upon the premiums by these companies received in the city upon the properties insured within the corporate limits thereof in which the association is located, together with such other appropriations or funds as may be appropriated or created and to which the association is entitled.

Sec. 11. Warrants, payment by state treasurer. The state treasurer shall upon presentation to him of the warrant of the state auditor specified in section 10 pay out of the general revenue fund of the state the amount thereof to the treasurer of such relief association presenting the warrant.

Sec. 12 Tax levy. The city council or other governing body of such city wherein such a relief association is located shall, each year, at the time the tax levies for the support of the city are made, and in addition thereto levy a tax of three-fourths of one mill on all taxable property within said city. In the event the balance in said relief association's special fund, at the time the levy is made, is less than \$500,000, as determined by said association's board of trustees, then it shall be the duty of said city's governing body to increase the rate of said tax levy herein provided to one mill, and in the event said

balance in said fund at said time is less than \$400,000, then it shall be the duty of such city's governing body to increase the rate of said tax levy herein provided to one and one-half mills. The tax so levied shall be transmitted with other tax levies to the auditor of the county in which such city is situated, and by said county shall be collected and payment thereof enforced when and in like manner as state and county taxes are paid.

Sec. 13. Deductions from payrolls. In addition to the moneys in the special and general fund of said association, or provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special and general fund:

(1) It shall be the duty of the city clerk, treasurer, or other disbursing officer of such city to deduct each month from the monthly pay of each member of the relief association, a sum equal to two and one-half per cent of the said monthly pay, but not to exceed two and one-half per cent of the basic monthly pay of a first grade fireman, and pay the same to the treasurer of the relief association for credit to the special fund of said association.

(2) It shall be the duty of the city clerk, treasurer, or other disbursing officer of such city to deduct each month from the monthly pay of each member of the relief association, a sum equal to one-half of one per cent of said monthly pay, but not to exceed one-half of one per cent of the basic monthly pay of a first grade fireman, and pay the same to the treasurer of the relief association for credit in the general fund of said association.

Sec. 14. County treasurers, payments to treasurer of association. As soon as practicable after the first days of June and November, each year, the treasurer of such county shall pay to the treasurer of such relief association within the county the amount of the tax then collected and payable to the association, together with all interest and penalties so collected and all interest paid thereon between the time of collection and the time of payment to the relief association. The treasurer of the city, in the event that the tax, or any part thereof, is paid to him, shall likewise pay the same to the treasurer of the relief association in the city as soon as the same has been collected, together with all interest and penalties collected thereon.

Sec. 15. Management of funds. Such relief association shall have full and permanent charge of, and the responsibility for the proper management and control of, all funds that may

come into its possession, and particularly funds derived from the following sources:

(1) Funds derived from the state and interest from the investment thereof;

(2) Funds derived from tax levies by the city in which the relief association is located and interest from the investment thereof; and

(3) Funds derived from private sources, such as gifts, charges, rents, entertainments, dues paid by members, and from other sources.

Sec. 16. Separate funds. The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the association special fund, and the other as its general fund. All money received from the state and from the city in which the relief association is located shall be deposited in the special fund and expended only for purposes authorized in sections 17 to 27. All money received from other sources shall be deposited in the general fund and may be expended for any purpose deemed proper by the association.

Sec. 17. Disbursements from separate funds. The amounts so paid to a relief association by the state and the city under the provisions of sections 1 to 29, and by it set aside and deposited as a special fund, shall be appropriated and disbursed by the association for the following purposes:

(1) For the relief of sick, injured and disabled members of the relief association, their widows and orphans; and

(2) For the payment of disability and service pensions to members of the relief association.

Sec. 18. Bylaws defining sickness and disability. Such relief association shall in its by-laws define the sickness and disability entitling its members to relief, specify the amounts thereof and the amounts to be paid to its disability and service pensioners and to widows and children of deceased members, and to fix the age limit of children to whom pensions may be paid. When the total assets of the association shall amount to \$300,000 or more it shall have the right to pay to its members the maximum amounts specified in sections 1 to 29.

Sec. 19. Pensions, right to reduce. Such firemen's relief association shall at all times have and retain the right to reduce the amount of pensions and benefits paid out of its funds, and to reduce and otherwise adjust the amounts of the

pensions and benefits to be thereafter paid out of its funds. And, within the limits described in sections 1 to 29, the association shall have and retain the right to increase or otherwise adjust these pensions and benefits after the same have been so reduced.

Sec. 20. Relief of disabled members. A member of the association who, by reason of sickness or accident, becomes disabled from performing his assignment of duties on the fire department shall be entitled to such relief as the by-laws of the association may provide.

No allowances for such disabilities shall be made unless notice of the disability and application for benefits on account thereof shall be made by, or on behalf of, the disabled member to the secretary of the association within 30 days after the beginning of the disability.

Sec. 21. Unit defined; amount of disability benefits. A unit as referred to hereinafter in this act shall be one-eightieth of the maximum monthly salary of a first grade fire fighter on January 1 of the current calendar year in which the pensions provided for in this act are paid.

A member of any such relief association is entitled to disability benefits as herein defined, shall receive the same from his association for such periods of time, at such times, and in such amounts, not to exceed 40 units per month, as the by-laws of said association provide.

Sec. 22. Retirement benefits. A member of such association who has completed a period, or periods of service on the fire department equal to 20 years or more, shall, after he has arrived at the age of 50 years, or more, and has retired from the payroll of the fire department, be entitled to a basic pension of not less than 20 units and not more than 33 units per month for his natural life in conformity to the by-laws of such association. Any and all leaves of absence of more than 90 days, except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing said period of service; and all periods of time during which a member received a disability pension shall be excluded in such computation. No deduction shall be made for a leave of absence granted to a member to enable him to accept an appointive position in said fire department. No member shall be entitled to draw both a disability and a service pension.

Such monthly basic payments may be increased by adding to said basic pension 1 unit per month, or any portion thereof, for each year of active duty over 20 and not more than 35 years.

The by-laws of such association may provide for these increases, or any portion thereof: provided, that in no event the total pension exceed the sum of 40 units per month.

Sec. 23. Deferred pension roll. A member of the association who has performed service on the fire department for 20 years or more but has not reached the age of 50 years shall have the right to retire from the department without forfeiting his right to a service pension. He shall, upon application, be placed on the deferred pension roll of the association and, after he has reached the age of 50 years, the association shall, upon his application therefor, pay his pension from the date the application is approved by the association. Any person making this application thereby waives all other rights, claims, or demands against his association for any cause that may have arisen from, or that may be attributable to, his service in the fire department.

Sec. 24. War service, part of period of service as fireman. Any applicant for a service pension who, subsequent to his entry into the service of such fire department, leaves the active service of such fire department to serve in the military forces of the United States in any war or national emergency, or having during such war or emergency left the active service of such fire department to enter the employment of the government of the United States and in such service rendered fire prevention services during such war or emergency and has returned after his honorable discharge from such service, and, within six months after such discharge, either applied for reinstatement in or resumed active duty in such fire department, the period of his absence in such service of the United States shall be counted in computing the period of service hereinbefore provided for, but during such period of military or fire prevention service he shall not be considered as an active member of his association.

Sec. 25. Widows and children, pensions. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving

(1) A widow who was his legally married wife, residing with him, and who was married to him while or prior to the time he was on a payroll of the fire department; and who, in case the deceased member was a service or deferred pensioner, was legally married to the member at least three years before his retirement from the fire department; or

(2) A child or children who were living while the deceased was on the payroll of the fire department, or born within nine months after the decedent was withdrawn from the

payroll of the fire department, the widow and the child or children shall be entitled to a pension or pensions, as follows:

(a) To the widow, a pension of not less than 15 units and not to exceed the sum of 22 units per month, as the by-laws of the association provide, for her natural life; provided, that if she shall remarry then the pension shall cease and terminate as of the date of her remarriage;

(b) To the child or children, if their mother be living, a pension of not to exceed 8 units per month for each child up to the time each child reaches the age of not less than 16 years and not to exceed an age of 18 years, in conformity with the by-laws of the association; provided, the total pensions hereunder for the widow and children of the deceased member shall not exceed the sum of 46 units per month;

(c) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of their mother, be entitled to receive a pension or pensions in such amount as the board of trustees of the association shall deem necessary to properly support the child or children until they reach the age of not less than 16 and not more than 18 years, as the by-laws of the association may provide; but the total amount of the pension or pensions hereunder for any child or children shall not exceed the sum of 40 units per month.

Sec. 26. Board of examiners. The relief association shall establish a board of examiners who shall, as and when requested by the association's board of trustees, make a thorough investigation of and report on all applications for membership in the association; investigate and make report on all applications for disability pensions and make recommendations as to the amount to be paid to each applicant; investigate and make report on all disability pensioners, and make recommendations as to amount of pension to be paid to them, from year to year; and investigate and report on all applications for service pensions, and claims for relief. This board shall consist of a competent physician selected by the association, and at least three members of the relief association on active duty with the fire department.

Sec. 27. Books, examination by public examiner. The public examiner of this state, shall, each year, examine the books and accounts of the secretary and the treasurer of such relief association. If he finds that any money has been expended for purposes not authorized by sections 1 to 29, he shall report the same to the governor, who shall thereupon direct the state auditor not to issue any further warrants to the association until the public examiner shall report that money un-

lawfully expended has been replaced. The governor may also take such further action as the emergency may demand.

Sec. 28. Payments exempt from process. All payments made, or to be made, by such relief association under any of the provisions of sections 1 to 29 shall be totally exempt from garnishment, execution, or other legal process and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment or to pay any sum on account thereof; and any attempt to transfer any such right or claim, or any part thereof, shall be void.

Sec. 29. Workmen's compensation not affected. Sections 1 to 29 shall not be construed as abridging, repealing, or amending the laws of this state relating to the provisions of the law commonly known as the workmen's compensation act.

Sec. 30. Surcharge on premiums when special fund is deficient. When the balance in the special fund of such firemen's relief association in such city of the first class is less than \$600,000, as determined by the association's board of trustees, which fact shall be duly certified to by the public examiner, the board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner. The commissioner shall thereupon order and direct a surcharge to be collected of two per cent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance company on property in this city of the first class, or by its agents for it, in cash or otherwise, until the balance in the special fund of the relief association amounts to \$600,000 and for a period of 15 days thereafter. As soon as the balance in this special fund amounts to \$600,000 the board of trustees of the relief association shall certify that fact to the commissioner, who shall forthwith issue his order directing that the collection of the surcharge be discontinued after the expiration of the 15-day period and forthwith mail a copy of this order to each insurance company affected thereby. This surcharge shall be due and payable from these companies to the state treasurer, in semiannual installments, on June 30th and December 31st of each calendar year, and if not paid within 30 days after these dates, a penalty of ten per cent shall accrue thereon and thereafter this sum and penalty shall draw interest at the rate of one per cent per month until paid.

Sec. 31. Warrant of state auditor. The state auditor semiannually after January 1, 1955, shall issue and deliver to the treasurer of the relief association in such city his warrant

upon the state treasurer for an amount equal to the total amount of the surcharge on the premiums within the city theretofore collected and transmitted to the state treasurer by these insurance companies. There is hereby appropriated out of any moneys in the general revenue fund in the state treasury not otherwise appropriated such sums as may, from time to time, be necessary to pay these warrants.

Sec. 32. State treasurer to pay warrants. The state treasurer shall, upon presentation to him of the warrant of the state auditor specified in section 31, pay out of the general revenue fund of the state the amount thereof to the treasurer of the relief association. The treasurer of the relief association shall place the money received by him in payment of any such warrant in the special fund of the relief association.

Sec. 33. Persons insuring in unauthorized companies to furnish statement. The owner of any property situated in any municipality having an organized fire department, or a partly paid or volunteer department, who carries insurance in a company not licensed by this state, or if he has not insured his property, who sets aside a reserve against loss or damage by fire, shall furnish to the commissioner, on a form prescribed and furnished by the commissioner, a statement, verified by affidavit, showing the description and location of the property, the amount of insurance, in companies not licensed by this state, he has effected against loss or damage by fire, the number of the policy, the name and location of the company issuing the policy, and the premiums paid; or, if he has not insured his property, the amount paid into or credited to any insurance fund or other reserve against loss or damage by fire. This statement shall be furnished by those property owners carrying insurance in companies not licensed by this state not more than 30 days after the issuance of the policy of insurance, and by those property owners not carrying insurance but having an insurance or other reserve fund against loss or damage by fire, upon demand of the commissioner, or, if no demand is made, then on or before January 31st, each year. Every such property owner whose duty it is to make this statement who shall wilfully make a false statement, or who shall, for 30 days after the demand, neglect to render the statement, shall be guilty of a misdemeanor and fined \$50, one-half of which fine shall be transmitted to the commissioner and disbursed by him as other sums collected under the terms of sections 33 to 36 are disbursed.

Sec. 34. Collection from property owner. If the insurance has been effected in any company not authorized to do business in this state, or if the owner carries his own in-

insurance fund or reserves, the commissioner shall, and he is hereby authorized and empowered to, collect from the property owner such taxes as would equal the taxes on the annual premium which authorized insurance companies would have charged for insuring the property. If not paid upon demand, this per cent may be recovered in a civil action brought in the name of the state.

Sec. 35: Proceeds, disbursement. All sums collected under the terms of sections 33 to 36 shall be payable to the fire department relief association in the same manner as disbursed for the same purposes as the two per cent state tax on fire insurance premiums.

Sec. 36. Limitation on application. Sections 33 to 36 shall not apply to property owned and occupied exclusively as a homestead, nor to exempt property specified in section 550.37 and upon which homestead or exempt property the owner carries his own insurance.

Approved April 6, 1955.

CHAPTER 376—H. F. No. 22

An act amending Minnesota Statutes, Section 297.13, Subdivisions 1 and 3, and providing for distribution of cigarette tax revenue to certain towns having village powers.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes, Section 297.13, Subdivision 1 is amended to read:

297.13 Revenue, disposal. Subdivision 1. **Cigarette tax, apportionment.** All revenues derived from taxes, penalties, and interest under sections 297.01 to 297.14 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner in the state treasury and credited one-fourth to a special fund to be known as the "Cigarette Tax Apportionment Fund," which fund is hereby created, and the balance to the general revenue fund. The revenues in the apportionment fund shall be apportioned as provided in subdivision 2 to the several counties, cities, villages and boroughs in this state, *and the term "village" as used herein shall include those towns which have village powers as defined in Minnesota Statutes, Section 368.01.* Each county, city, village and borough shall receive from the apportionment fund an amount bearing the same relation to the total amount to be apportioned as its