

transportation, or have in possession with intent to use, sell or transport any economic poison or similar article contrary to the provisions of any such rule or regulation or who shall fail to comply with any such rule or regulation, shall be guilty of a violation of Laws 1945, Chapter 427.

Sec. 4. Minnesota Statutes 1953, Section 24.077, is amended to read:

**24.077 Penalties.** *Whoever shall expose for sale or sell within this state any economic poison which is labeled, adulterated or misbranded in any manner other than as specified or required by Section 24.02, Subdivisions 8, 13, 14, 15 and 16 or which is not accurately labeled in the manner specified and required by said subdivisions of section 24.02 or any person violating any of the provisions of laws 1945, Chapter 427 or any regulations made hereunder or now in force, upon conviction thereof, be punished by a fine of not less than \$25 or by imprisonment in the county jail for not less than 30 days for the first offense and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days or both for each subsequent offense.*

Approved February 28, 1955.

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## CHAPTER 75—S. F. 85

[Not Coded]

*An act relating to Firemen's Relief Association and firemen's pensions and levies therefor in cities of the third class having an assessed valuation of over \$5,000,000 and less than \$6,000,000.*

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

**Section 1. Moorehead, firemen's relief association.** The fire department of each city of the third class having an assessed valuation of over \$5,000,000 but less than \$6,000,000 employing 12 or more regular and fully paid firemen and seven or more volunteer firemen and having a population of more than 14,000 but less than 15,000 according to the 1950 federal census shall maintain a firemen's relief association incorporated under the laws of the state. The association shall have perpetual existence.

**Sec. 2. Organization, management.** The relief association shall be organized, operated and maintained in accordance with its articles of incorporation and its by-laws by fire-

men who are members of the fire department. It may regulate and manage its own affairs and for that purpose has such corporate powers as are necessary and useful.

**Sec. 3. Fireman, designation.** Subdivision 1. For the purposes of this act, the term "fireman" means an individual, either a regular or a volunteer, who is regularly entered on the payroll of the department serving on active duty or subject to call as a volunteer and engaged in the hazards of fire fighting, but does not include a substitute fireman or an individual employed irregularly by the fire department.

Subd. 2. Any fireman who is a member of the relief association now maintained by the fire department at the time of passage of this act may continue as a member of the association heretofore existing and may retain his membership and is entitled to any pensions or other benefits of the old association on appointment or promotion to any other position to which he is eligible. Any member of the existing association now receiving any pension or benefit is entitled to elect to receive any pension or benefit provided by this act in lieu of receiving benefits from the existing association after the effective date of this act. The election shall be in the manner prescribed by the by-laws.

**Sec. 4. Membership, application.** When any fireman hereafter employed desires to become a member of the relief association provided by this act, he shall make written application therefor within 90 days after the date he is entered on the payroll of the department. The application shall be made on a form supplied by the association, and shall be accompanied by the certificate of a physician as required by the association's by-laws. The application and certificate shall be filed with the secretary of the association, and thereafter the board of examiners of the association shall make an investigation and file its report thereof with the secretary, and the association must act upon an application within 90 days from the date it was filed with the secretary.

**Sec. 5. Membership, exclusion from.** The association may exclude any applicant for membership who is not physically and mentally sound. Additional requirements for the entrance fees and annual dues may be prescribed in the by-laws of the association.

**Sec. 6. Officers.** The officers of the association shall be a president, vice-president, secretary, treasurer, board of trustees, and finance committee, all to be elected in the manner and for the terms prescribed in its articles of incorporation. The board of trustees manages the affairs of the association.

The secretary and the treasurer each furnishes a corporate bond to the association for the faithful performance of his duties in the amount determined by the association. The premiums on these bonds are paid by the association.

**Sec. 7. Reports.** Prior to February 1, each year the secretary and the treasurer shall prepare a detailed itemized report of all receipts and expenditures with regard to the special fund for the preceding year. This report shall show the source of receipts and to whom and for what purpose the moneys were paid and the balance in the fund. One correct copy thereof shall be filed with the city clerk and one with the state auditor. Neither the city nor the state shall pay any money to the relief association until such copy is so filed.

**Sec. 8. City clerk, certificate of existence of association.** Prior to November 1 each year, the city clerk shall file with the commissioner of insurance, his certificate stating the existence of the relief association.

**Sec. 9. Commissioner of insurance, duties.** The commissioner of insurance shall enclose in his annual statement blank, sent to all fire insurance companies doing business with the state, a form containing the name of the firemen's relief association in such city. At the time these companies make their annual statements to the commissioner of insurance, they shall state therein the amount of fire insurance premiums received upon properties insured within the corporate limits of the city during the year ending December 31, last past. Before July 1 each year, the commissioner of insurance shall certify to the state auditor, the information thus obtained together with the amount of the fire insurance premium tax for the benefit of the relief association paid in that year by these companies upon such fire insurance premiums.

**Sec. 10. State auditor, warrants.** At the close of each fiscal year, the state auditor delivers to the treasurer of the relief association, a 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 the fire insurance companies upon the fire insurance premiums received by them in the city upon properties insured within its limits, together with other funds to which the association is entitled.

**Sec. 11. State treasurer, payment of warrants.** Upon presentation of the warrant of the state auditor specified in section 10, the state treasurer shall pay out of the general revenue fund of the state the amount thereof to the treasurer of the relief association.

**Sec. 12. Tax levy.** At the time the tax levies for the

support of the city are made and in addition thereto the council shall levy each year a tax of one mill on all taxable property within the city. When the special fund is \$150,000 or more, the levy each year shall be reduced to not less than one-half a mill, until the fund is not less than \$100,000, then such levy shall again be one mill. Any city may levy this tax notwithstanding its maximum annual tax levy for all purposes is limited by its charter or by statute. This tax is in addition to the tax levy as so limited. If this tax is levied, the officer charged with the responsibilities of the finances of the city shall deduct each month from the basic monthly pay of each of its regular full time firemen three percent of his monthly salary not to exceed \$300 per month, for the period of time prescribed by the by-laws, the contribution of the volunteer fireman shall be in the amount prescribed in the by-laws. He shall transfer the total amount of these deductions to the treasurer of the relief association who places the same in the special fund to the credit of the individual fireman. If a fireman is separated from the service under such circumstances that no pension benefits are payable to him, or to his widow or children, the treasurer shall return to the fireman or his immediate family in the event such separation is due to his death, all of the amounts so contributed, without interest, and less the amount of any disability or other benefits paid such fireman. This tax levy is transmitted with other tax levies to the county auditor, it is collected and payment thereof enforced as are state and county taxes.

**Sec. 13. County treasurer pay proceeds of levy to association treasurer.** Each year, immediately after June 1 and November 1, the county treasurer pays to the relief association treasurer, the amount of the tax then collected, together with interest and penalties collected, and the interest paid thereon between the time of collection and the time of payment to the association. If any of this tax is paid to the city treasurer, he shall immediately pay the same to the relief association treasurer, together with all interest thereon and penalties collected.

**Sec. 14. Funds, management.** The relief association shall properly manage and control all funds that come into its possession.

**Sec. 15. Association funds.** The moneys received by the association are to be kept in an "Association Special Fund" or in an "Association General Fund." The moneys received from the state and city are deposited in the "Association Special Fund" and may be expended only for the purposes named in section 16. All other moneys are deposited in the "Associa-

tion General Fund" and may be expended for any purpose the association deems proper.

**Sec. 16. Disbursement of funds.** The amounts paid to the relief association by the state and city and set aside as the "Association Special Fund" shall be appropriated and disbursed only for:

(a) the relief of sick, injured, or disabled members of the association, their widows and orphans.

(b) the payment of disability or service pensions to members of the association.

(c) the payment of salaries of the officers of the association and premiums on their official bonds.

**Sec. 17. Pensions.** Subdivision 1. The relief association shall in its by-laws define the sickness and disability entitling its members to relief, and specify the amounts thereof, and also specify the amounts to be paid to its disability and service pensioners, and to widows and children of deceased members, subject to, and in accordance with, the provisions of this act.

Subd. 2. No allowance for disabilities shall be made unless notice of such disability and application on account thereof shall be made on behalf of the disabled member to the secretary of the association within 30 days after the beginning of such disability.

Subd. 3. A member of the relief association entitled to disability benefits shall receive the same from the association for such period as he is unable to perform the duties of a fireman.

Subd. 4. Persons who are now receiving pensions under the association heretofore existing shall receive a pension of \$40 per month; provided that the widows of such pensioners or widows who are now receiving a pension from the existing association shall receive a pension of \$40 per month and each child of such deceased pensioner under the age of 18 years of age shall receive \$15 per month until such child has attained the age of 18 years. The maximum amount of the payment to such widow and children shall not exceed \$80 per month.

Subd. 5. A member of the association organized under this law, who has completed a period or periods with the fire department as a regular full time fireman, equal to 20 years or more; or who has completed a period or periods with the fire department as a regular full time fireman equal to ten years and has a combined record of active service with the fire

department as a regular full time fireman and volunteer fireman equal to 20 years, shall after he has arrived at the age of 60 years and has retired from the payroll of the fire department, be entitled to receive a service pension of \$150 per month. A member of said association, who has completed a period or periods of service within the fire department as a volunteer fireman equal to 20 years or more; or a member of said association who is not eligible for the maximum service pension, but who has served as a volunteer fireman and as a regular full time fireman, the combined record of service with the fire department as a regular full time fireman and as a volunteer fireman being equal to 20 years, shall after he has arrived at the age of 60 years and has retired from the payroll of the fire department, be entitled to receive a service pension \$40 per month. In computing the time of service, any leave of absence exceeding 90 days shall be excluded, unless the leave was granted because of disability of the member due to accident or sickness; but no deduction shall be made in the event a leave of absence was granted to a member to enable him to accept an appointive position in the fire department. No member may draw a disability pension and a service pension at the same time.

Subd. 6. All members must serve 20 years before they shall be eligible for a pension; however, any member, after 20 years of service and who has attained the age of 50 years, can retire at age 50 and in that event the amount of his pension shall be two-thirds the amount of pension available at age 60 years.

Sec. 18. **Application for pension.** A member of such association who has performed service with 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, or at his election, 60 years, the association shall upon application therefor, pay his pension from the date such application is approved by said association. Any person making such application thereby waive all other rights, claims or demands against the association for any cause that may have arisen from, or that may be attributable to, his service on the fire department.

Sec. 19. **Service in armed forces.** Any applicant for a service pension who subsequent to his entry into the service of such fire department has served in the military forces of the United States during any war or emergency or entered the employment of the government of the United States and in such

service rendered fire prevention service during any war or emergency and has returned after his honorable discharge from such service and resumed active duty in said fire department, the period of his absence in such service of the United States shall not be deducted in computing the period of service hereinbefore provided for, but shall be construed and counted as a part and portion of his active duty in said fire department, provided that credit allowed for such service shall not exceed a total of five years. Any such member, who was a full time regular fireman at the time of his entry into government service, who seeks credit for such military service shall, upon his return to employment in the department, pay into the pension system fund for each year of military service three percent of his last full year's salary paid by the city; if such member be a volunteer member of the fire department at the time of his entry into government service, he shall pay into the pension system fund the sum prescribed in the by-laws.

**Sec. 20. Disability pensions.** No member of the association who shall become mentally or physically unable to perform his duties, or any of his duties, shall be entitled to retire and receive benefits under this pension system unless he shall have been on active duty with the department for ten years, or unless such mental or physical impairment was received in line of duty and caused the permanent disability of such member.

**Sec. 21. Pensions to dependents.** When a service pensioner, disability pensioner or deferred pensioner, or an active member of such relief association dies, leaving:

(a) A widow who became his legally married wife while or prior to the time he was on the payroll of the fire department and remained such continuously after such marriage until his death without having applied for any divorce or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to such member at least three years before his retirement from said fire department; and who, in any case, was residing with him at the time of his death. No temporary absence for purposes of business, health or pleasure shall constitute a change of residence for the purposes of this section.

(b) A child, or children, who were living while the deceased was on the payroll of the fire department, or who were born within nine months after said decedent was withdrawn from the payroll of said fire department; such widow and such child, or children, shall be entitled to a pension as follows:

1. To the widow of a full time regular fireman, a pension in the sum of \$80 per month for her natural life or until

she remarries, and a pension of \$15 per month for each child of such deceased member under 18 years of age provided that maximum amount of the pension to the widow and children shall not under any circumstances exceed \$150 per month. If such widow shall remarry, then her pension shall cease and terminate as of the date of her said remarriage.

2. To the widow of a volunteer fireman who is a member of the association, a pension in the sum of \$40 per month for her natural life, or until she remarries, and a pension of \$15 per month for each child of such deceased member under 18 years of age, provided that the maximum amount of the pension to the widow and children shall not under any circumstances exceed \$80 per month. If such widow shall remarry, then her pension shall cease and terminate as of the date of her said marriage.

3. To such child or children of a deceased member, after the death of the widow of such member, a monthly pension, or pensions, in such amount or amounts in excess of \$15 per month for each child as the board of trustees of such association shall deem necessary, to properly support each child or children until they reach the age of 18 years, but not to exceed the sum of \$80 per month to the children of any one family in the case of the deceased member being a volunteer fireman, and not to exceed the sum of \$150 per month in those cases where the deceased member was a regular full time fireman.

**Sec. 22. Pension fund based on actuarial tables.** The pension fund shall be based upon actuarial tables and shall be examined from time to time and the association shall have the authority to engage the services of an actuary when deemed necessary by the association. To the extent that the report of an actuary determines that the rate of contribution by members must be increased or the amounts of payments decreased, in order to keep the association solvent, such changes can be effectuated by a change in the by-laws notwithstanding that such change in by-laws may require a greater contribution from members than what is herein provided or may require a lesser payment to members of [or] their beneficiaries than what is herein provided.

**Sec. 23. Return of contributions.** Any member withdrawing from employment in the department, or ceasing to be a volunteer as a volunteer is defined in the by-laws, thereby ceasing his membership in the pension system, shall receive a return of the full amount of his contributions paid, without interest. Contributions to the pension fund may be deducted from the monthly salary of members.

**Sec. 24. Limitation on amount of pension.** No members of this association for a period of two years after passage of this act shall receive a pension in excess of \$100 per month.

**Sec. 25. Board of examiners.** Such 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 all applications for, membership in the association; investigate and make report and recommendation on all applications for disability pensions, service pensions, and claims for relief. Such board shall consist of a competent physician elected by the association, and at least three members of such relief association on active duty with the fire department.

**Sec. 26. Audit of books, public examiner.** The public examiner, or such auditor who is designated by the city council to audit the city books, shall each year examine the books and accounts of the secretary and treasurer of such relief association. If he finds that any money has been expended for purposes not authorized by this act, he shall report the same to the governor, who shall thereupon direct the state auditor not to issue any further warrants to such association until the public examiner shall report that money unlawfully expended has been replaced. The governor may also take such further action as the emergency may demand.

**Sec. 27. Payments exempt from process.** All payments made or to be made by the relief association under any of the provisions of this act, 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. 28. Bylaws provide funeral benefits.** The by-laws of the association shall define the sickness or disability entitling its members to relief, and specify the amounts of relief. The by-laws shall provide for funeral benefits.

**Sec. 29. Workmen's compensation laws not affected.** This act 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. Severable.** If any section or portion of a section of this act is declared invalid, the rest of this act shall nevertheless be and remain in full force and effect.

Approved February 28, 1955.