

Sec. 8. **Effective date.** This act is effective on July 1, 1965.

Sec. 9. **Appropriation.** There is appropriated to the board from the general revenue fund in the state treasury, from moneys not otherwise allocated, the sum of \$25,500 for the fiscal year beginning July 1, 1966 for indemnifications as provided in section 3 of this act.

Approved April 13, 1965.

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CHAPTER 190—S. F. No. 595

[Not Coded]

*An act relating to firemen's relief association and firemen's pension and levies therefor in the city of Moorhead; amending Laws 1955, Chapter 75.*

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

Section 1. Laws 1955, Chapter 75, is amended to read:

Section 1. **Moorhead, city of; firemen's relief association.** The fire department of ~~each the~~ 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 7 or more volunteer firemen and having a population of more than 14,000 but less than 15,000 according to the 1950 federal census *Moorhead* shall maintain a firemen's relief association incorporated under the laws of the state. The association shall have perpetual existence.

Sec. 2. The relief association shall be organized, operated and maintained in accordance with its articles of incorporation and its by-laws by firemen 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. ~~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.

**Changes or additions indicated by *italics*, deletions by ~~strikeout~~.**

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. 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. 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. 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 *shall manages manage* the affairs of the association. The secretary and the treasurer *shall each furnishes furnish* 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 *shall be* are paid by the association.

Sec. 7. 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

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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. 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. 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 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. At the close of each fiscal year, the state auditor *shall issue and delivers* deliver 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. 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. At the time the tax levies for the support of the city are made and in addition thereto the council shall levy each year *for the benefit of the special fund of such association*, a tax of one mill on all taxable property within the city. ~~When the special fund is \$150,000.00 or more, the levy each year shall be reduced to not less than one-half a mill, until the fund is not less than \$100,000.00, then such levy shall again be one mill. At the time when an actuarial survey based on the entry age normal cost method and computed by an approved actuary (as defined by law) shall show the assets of the special fund to be equal to the actuarially required reserve, the city shall thereafter set said tax levy so as to provide full financing for the fund on an actuarially sound basis, considering all sources of income to the fund. Any~~ The 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

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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 ~~3%~~ *six percent* of his monthly salary, not to exceed ~~\$300.00~~ \$400 per month, for the period of time, *not less than 20 years*, as prescribed by the bylaws. The contribution of the volunteer fireman shall be in the amount prescribed in the bylaws. He shall transfer the total amount of these deductions to the treasurer of the relief association who ~~shall place~~ *place* 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. Each year, immediately after June 1 and November 1, the county treasurer ~~shall pay~~ *pay* to the relief association treasurer, the amount of the tax then collected, together with interest and penalties collected, and ~~the all~~ *all* 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 *paid* thereon and penalties collected.

Sec. 14. ~~The relief association shall properly manage and control all funds that come into its possession.~~ *Subdivision 1. The Moorhead firemen's relief association may itself invest and reinvest its funds in securities that are designated in subdivision 2 of this section or it may designate any trust company licensed to do business in Minnesota as a depository to receive in an agency account for custody and investment such portion of the funds of the Moorhead firemen's relief association as in its judgment may not be required for immediate use.*

*Subd. 2. The trust company shall invest such sums in securities that are designated by Minnesota Statutes, Section 352.06, as legal investments for funds of the state employees retirement association. The investment of such funds shall be subject to all the restrictions provided in Minnesota Statutes, Section 352.06, except the percentage of the funds which may be invested in common and preferred stocks in any year is not restricted and the association may invest any portion of the funds in such securities in any year; provided, however, that any advice concerning investments shall be*

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*given with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trust company shall have the duty to advise the association relative to the sale, conveyance, and exchange of such securities, and investment and reinvestment of funds, when it deems it desirable to do so. The trustee shall sell securities upon request of the association, when the association determines that funds are needed for the firemen's relief association.*

Sec. 15. 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, *including deductions from firemen's salaries together with earnings on the special fund, are shall be* deposited in the "association special fund" and may be expended only for the purposes named in section 16. All other moneys *are may be* deposited in the "association general fund" and may be expended for any purpose the association deems proper.

Sec. 16. The amounts paid to the relief association by the state and city, *including deductions from firemen's salaries together with the earnings on the special fund,* 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 payment of survivors' benefits to widows and orphans:~~ *of members of the association,*

(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 the official bonds of officers of the association,~~

(d) *the payment of salaries to the officers of the association but not to exceed \$500 per year in total of all salaries,*

(e) *necessary administrative expenses including, but not limited to, actuarial, auditing, and legal expenses.*

Sec. 17. Subdivision 1. The relief association shall in its bylaws define the sickness and disability entitling its members to ~~relief~~ *disability benefits,* and specify the amounts thereof, and *shall* 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.

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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, *not to exceed \$150 per month*, 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 benefits from the association heretofore existing shall *continue to receive a pension of \$40.00 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 \$40.00 per month and each child of such deceased pensioner under the age of 18 years of age shall receive \$15.00 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 \$80.00 per month the same benefits as they would be entitled to receive under the provisions of Laws 1955, Chapter 75, prior to the effective date of this act.*

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 *twenty 20 years, and was on January 1, 1965, a member of the association*, 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 ~~\$150.00~~ \$200 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 of \$40.00 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

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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 2/3 the amount of pension available at age 60 years. A member of the association, except one whose total service was as a volunteer fireman, who meets all requirements for a service pension except age may retire when he attains the age of 50 years or more and receive the amount of pension hereinbelow set opposite his age at retirement.*

<i>Age of Retirement</i>	<i>Pension</i>	<i>Age of Retirement</i>	<i>Pension</i>
50	\$150	56	\$180
51	\$155	57	\$185
52	\$160	58	\$190
53	\$165	59	\$195
54	\$170	60	\$200
55	\$175		

Sec. 18. 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 waives 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. 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

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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~~ *association's special* fund for each year of military service, *prior to January 1, 1965*, three percent of his last full year's salary paid by the city; *and for each year of such service subsequent to January 1, 1965, six percent of such salary.* 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~~ *association's special* fund the sum prescribed in the bylaws.

Sec. 20. 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. 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 death~~; 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~~ *such* 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 *such* 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.

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2. To ~~the~~ *such* 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 *such* 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. 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 bylaws notwithstanding that such change in bylaws 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. Any member withdrawing from employment in the department, or ceasing to be a volunteer as a volunteer is defined in the bylaws, 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. ~~No members of this association for a period of 2 years after passage of this bill shall receive a pension in excess of \$100.00 per month. No volunteer firemen shall be accepted for membership in this association after January 1, 1965, but all volunteer firemen who were members on that date may continue such membership without reduction of rights or benefits by reason of this act.~~

Sec. 25. Such relief association shall establish a board of ex-

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aminers 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. 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, city council 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. 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. The bylaws of the association shall define the sickness or disability entitling its members to relief, and specify the amounts of relief. The bylaws shall provide for funeral benefits.

Sec. 29. 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. 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.

Sec. 2. *Subdivision 1. All provisions of this act, other than those provisions in section 12 of Laws 1955, Chapter 75, as amended by section 1 of this act relating to the increase of the deductions to six percent of the monthly basic pay of each, are effective upon compliance with section 3 of this act.*

*Subd. 2. All those provisions of this act which do not be-*

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*come effective pursuant to the provisions of subdivision 1 of this section are effective on July 1, 1965.*

Sec. 3. *This act shall become effective only after its approval by the governing body of the city of Moorhead and upon compliance with the provisions of Minnesota Statutes, Section 645.021.*

Approved April 13, 1965.

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CHAPTER 191—S. F. No. 1077

[Coded]

*An act relating to taxes on and measured by net income and amended income tax returns.*

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

Section 1. **[290.391] Income tax; amended returns.** Any taxpayer who finds that his income tax return as originally filed is in error may correct such error by filing an amended return. An amended return should be filed on a return form for the same year as the return that is being corrected and the words "Amended Return" should be placed at the top of page one of the return. The filing date of the original return starts the running of the statute of limitations, and any subsequent filing of an amended return does not toll the statute.

If the taxpayer is entitled to a credit or refund due to the correction, the amended return will serve as a claim or a claim for refund form may be filed. In either case the claim must be filed before the limitation period expires.

Approved April 13, 1965.

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CHAPTER 192—H. F. No. 107

[Not Coded]

*An act relating to certain enumerated towns in the county of Waseca; authorizing such towns to make certain public improvements in conformity with Minnesota Statutes 1961, Chapter 429, and any act amendatory thereof.*

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